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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION

JANE DOE NOS. 1-4,

Plaintiffs,

v.

DANIEL S. FITZGERALD,

Defendant.

Case No: 2:20-CV-10713-DDP-RAO

FIRST AMENDED COMPLAINT

INTRODUCTION

1. On December 15, 2020, the Department of Justice ("DOJ") indicted Peter Nygard for spearheading a decades-long racketeering enterprise and sex trafficking venture ("Nygard Sex Trafficking Racketeering Enterprise"), enabled by myriad accomplices and co-conspirators. *See United States v. Nygard*, No. 20 CR 624 (S.D.N.Y.) ("DOJ Indictment") (annexed as Exhibit 1).

2. The purpose of the Nygard Sex Trafficking Racketeering Enterprise is to "recruit, entice, transport, harbor, and maintain adult and minor-aged female victims for Nygard's sexual gratification," including through the use of "force, fraud, and coercion to cause women to engage in commercial sex with Nygard ***and others***." *See* Ex. 1 at ¶ 3 (emphasis added).

3. Nygard and his associates "used fraud, force and coercion to cause at least dozens of adult and minor-aged female victims to engage in commercial sex by recruiting, enticing, transporting, harboring, and maintaining adult and minor-aged female victims for Nygard's sexual gratification and, on occasion, the gratification of ***Nygard's personal friends*** and business associates." Ex. 1, ¶ 11 (emphasis added).

4. Defendant Daniel S. Fitzgerald ("Defendant" or "Fitzgerald") is one of Nygard's oldest and closest personal friends; and Fitzgerald is a key member of the Nygard Sex Trafficking Racketeering Enterprise.

5. As stated in the DOJ Indictment, **Nygard would engage in "sexual 'swaps' with male friends** and business associates, who would bring Nygard a 'date' for sex in exchange for access to one of Nygard's s 'girlfriends' for sex. 'Girlfriends' were not consulted in advance that they would be traded for sex and Nygard often pressured them to comply with such swaps at his direction through manipulation, intimidation, degradation, and threats." Ex. 1, ¶18(b) (emphasis added).

6. Plaintiffs in this case were victims of the Nygard Sex Trafficking

Racketeering Enterprise; they were "swapped" from Nygard to Fitzgerald and forced to engage in sex acts with Fitzgerald.

7. As a member of the Nygard Sex Trafficking Racketeering Enterprise, Fitzgerald knowingly participated in the venture by engaging in commercial sex acts with young women who he knew were being sex trafficked by Nygard and the web of companies he owns and controls ("Nygard Companies").

8. This is a civil action for damages under the Trafficking Victims Protection Reauthorization Act, 18 U.S.C. § 1595 ("TVPRA"), the Civil Remedies for Racketeering Act ("CRRA"), 18 U.S.C. §1964, and state law, brought by Plaintiffs Jane Doe Nos. 1-4, arising from Defendant Fitzgerald's participation in the Nygard Sex Trafficking Racketeering Enterprise.

PARTIES

A. Plaintiff Jane Doe Nos. 1-4

9. Jane Doe No. 1 is a United States citizen that resides in Florida.

10. Jane Doe No. 2 is a Bahamian citizen that resides in Colorado.

11. Jane Doe No. 3 is a United States citizen that resides in Ohio.

12. Jane Doe No. 4 is a United States citizen that resides in California.

13. Plaintiffs are using pseudonyms because of the highly personal nature of their victimization and because of the serious risk of harm to which they would be exposed if they brought this suit in their actual names.

14. Plaintiffs are at serious risk of retaliatory harm from filing this lawsuit because Fitzgerald has committed acts of violence against one or more of the Plaintiffs when they have acted against his wishes.

15. Fitzgerald's violent temper surfaced when Jane Doe No. 4 attempted to leave the Fitzgerald household, and Fitzgerald violently attacked her and attempted to suffocate her.

16. Further, Defendant has already articulated his intent to publicly humiliate and shame Plaintiffs by claiming that Plaintiffs are simply seeking a

"payday," attempting to besmirch the truth of their trauma and further marginalize and denigrate them for shining the light of truth on Defendant's conduct.

17. Additionally, Defendant's co-conspirators and fellow RICO enterprise members, Nygard and the Nygard Companies, have tremendous wealth and power and have used it to retaliate against others who have attempted to come forward, including by means of arson, property destruction, threats of physical violence, and threats of legal action.

18. Plaintiffs are also vulnerable because of Defendant's co-conspirators' corruption of law enforcement through bribery and political influence.[1]

19. Because Fitzgerald's victimization of Plaintiffs is part of a RICO enterprise and sex trafficking conspiracy and, therefore, was inextricably intertwined with, and directly involved, Peter Nygard, Plaintiffs reasonably fear retaliation from both Defendant Fitzgerald and from Nygard and their myriad co-conspirators, who actively tamper with witnesses and engage in intimidation tactics and threats.

20. Plaintiffs' safety, right to privacy, and personal security outweigh the public interest in their identification.

21. Plaintiffs' legitimate concerns for privacy outweigh any prejudice to Defendant by allowing Jane Does Nos. 1-4 to proceed anonymously.

B. Defendant Daniel S. Fitzgerald

22. Defendant Daniel S. Fitzgerald is a California citizen who resides in California and owns properties in California, as well as a real estate development company that conducts substantial business in California.[2]

23. Fitzgerald conspired with and engaged in an enterprise with numerous third parties located both in and outside the State of California, including, but not

[1] *See, e.g.*, https://www.youtube.com/watch?v=Pw1xUXQNelg; http://www.tribune242.com/news/2018/feb/14/nygard-outright-bribery-plp/; http://www.tribune242.com/news/2014/jun/25/nygard-gave-money-plp-then-asked-help-over-land-is/; http://www.tribune242.com/news/2017/may/05/fresh-questions-over-las-vegas-trip-pm-gibson-and-/.

[2] https://www.dannyfitzgerald.com/aboutcontec.

limited to, Nygard, the Nygard Companies, myriad Nygard Companies' employees, and other unidentified co-conspirators and enterprise associates.

JURISDICTION AND VENUE

24. This Court has federal question subject-matter jurisdiction pursuant to 28 U.S.C. § 1331, because Plaintiffs bring this action under the federal TVPRA statute, 18 U.S.C. § 1595, and the CRRA, 18 U.S.C. § 1964(c).

25. Plaintiffs Jane Doe Nos. 1-4's claims arise out of the same series of transactions or occurrences and share common questions of law or fact. The essential facts underlying Jane Doe Nos. 1-4's claims are so logically connected that considerations of judicial economy and fairness dictate that all the issues be resolved in a single lawsuit. There is also substantial overlap in questions of law or fact across Jane Doe Nos. 1-4's claims.

26. This Court also has supplemental jurisdiction over Plaintiffs' State law claims pursuant to 28 U.S.C. § 1367(a), because all claims alleged herein are part of the same nucleus of operative facts.

27. This Court has personal jurisdiction over Defendant because he is a resident of this State. Further, the events giving rise to the causes of action asserted herein substantially occurred in California, insofar as Fitzgerald knowingly conspired, aided and abetted, facilitated, and directly participated in the Nygard Sex Trafficking Racketeering Enterprise through actions that occurred in this State.

28. Venue is proper in this District, under 28 U.S.C. § 1391(b)(2), because Defendant Fitzgerald knowingly engaged in sex trafficking in this District and, therefore, a substantial part of the events giving rise to Plaintiffs' claims occurred in this District.

LEGAL BACKGROUND

I. THE TVPRA

29. The federal sex trafficking statute, 18 U.S.C. § 1591, outlaws sex trafficking activities that affect interstate or foreign commerce or take place within

the territorial jurisdiction of the United States. It is to be construed expansively because it serves a remedial purpose and uses intentionally broad language.

30. The federal sex trafficking statute, 18 U.S.C. § 1591, makes it a federal felony if any person acting in interstate or foreign commerce, or within the territorial or maritime jurisdiction of the United States, knowingly:

> (1) … recruits, entices, harbors, transports, provides, obtains, advertises, maintains, patronizes, or solicits by any means a person; or
>
> (2) benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in violation of paragraph (1),
>
> knowing, or … in reckless disregard of the fact, that means of force, threats of force, fraud, coercion …, or any combination of such means will be used to cause the person to engage in a commercial sex act, or that the person has not attained the age of 18 years and will be caused to engage in a commercial sex act ….

31. The TVPRA, 18 U.S.C. § 1595, provides a civil remedy to victims of sex trafficking crimes, including violations of 18 U.S.C. § 1591, against the perpetrator of such crimes and against anyone else who knowingly benefits, financially or by receiving anything of value, from participation in a venture which that person knew or should have known has engaged in a sex trafficking crime. 18 U.S.C. §1595(a).

II. CIVIL RICO

32. The federal Racketeer Influenced and Corrupt Organizations ("RICO") Act defines "racketeering activity" to include "any act which is indictable under" 18 U.S.C. §§ 1581-1592 (the statutes relating to peonage, slavery, and trafficking in persons). 18 U.S.C. §1961(1)(B). A RICO "enterprise" "includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity." 18 U.S.C. § 1961(3). A "pattern of racketeering activity" "requires at least two acts of racketeering activity, … the last of which occurred within ten years … after the commission of a prior act of racketeering activity." 18 U.S.C. § 1961(5).

33. RICO makes it "unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity …." 18 U.S.C. § 1962.

34. The CRRA – RICO's civil remedies provision – allows "any person injured in his business or property by reason of a violation" of 18 U.S.C. § 1962 to "sue therefor in any appropriate United States district court" and to "recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney's fee …." 18 U.S.C. §1964(c).

35. The DOJ Indictment identified the Nygard enterprise as Peter Nygard, various Nygard Companies, individuals employed by Nygard Companies, and others, noting that the "Enterprise constitutes an ongoing organization whose members function as a continuing unit for the common purpose of achieving the objectives of the Enterprise." Ex. 1, ¶¶ 4-5. The purposes of the Enterprise include to "facilitate and conceal their racketeering activity, including sex trafficking…." Ex. 1, ¶ 7.

36. Fitzgerald is one of the many unnamed members of the Nygard enterprise, who committed numerous predicate acts, including the sex trafficking of Jane Doe Nos. 1-4 on at least seven separate occasions within an eleven-year period, constituting a pattern of racketeering activity.

FACTUAL ALLEGATIONS

I. Fitzgerald Engaged in Commercial Sex Acts with Jane Doe Nos. 1-4, Knowing They Were Being Trafficked to Him by Nygard.

37. Fitzgerald knowingly participated in the Nygard Sex Trafficking Racketeering Enterprise and committed numerous predicate acts in furtherance of the enterprise by engaging in commercial sex acts with Jane Doe Nos. 1-4, who are sex trafficking victims of both Nygard and Fitzgerald.

38. Fitzgerald used Nygard's sex trafficking venture and enterprise, and also conspired with Nygard, to build his own sex trafficking network and scheme.

39. Fitzgerald is a long-time friend and associate of Nygard's who frequently attended "pamper parties"[3] and dinners (events used by Nygard to lure and traffic his victims) at Nygard's Marina Del Rey property and other locations around the world.

40. "To recruit victims, Peter Nygard, the defendant, and others known and unknown, used a ***network of trusted associates***, 'girlfriends,' and Nygard Group employees. Many of the victims were initially invited to dinners or parties at Nygard's residences, particularly in the Bahamas and in Marina del Rey, California.… Many victims were initially induced, coerced, and forced to have sex with Nygard through one or more of the following: false promises of modeling or fashion industry jobs; the supply of alcohol and/or drugs, including the drugging of drinks without the victim's knowledge; and physical force." Ex. 1, ¶ 13 (emphasis added). The referenced "network of trusted associates" includes Fitzgerald, with whom Nygard frequently "swapped" sex trafficking victims, including Jane Doe Nos. 1-4.

41. Based on his decades of friendship with Nygard and his attendance at events with Nygard, Fitzgerald knows of the Nygard Sex Trafficking Racketeering Enterprise and was one of Nygard's most trusted associates.

42. When Nygard was in Marina del Rey, Fitzgerald would routinely be at Nygard's house there, engaging in numerous predicate acts in furtherance of the Nygard Sex Trafficking Racketeering Enterprise.

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[3] https://www.instagram.com/p/BehBmpwDZW-/; https://www.instagram.com/p/BjmAvU2A86k/; https://www.instagram.com/p/BrMcKpBn28C/; https://www.instagram.com/p/B3TwcWWAP2K/; https://www.instagram.com/p/B4I2E_OgQai/

43. Below are photographs of Nygard and Fitzgerald together with a number of sex trafficking victims and other associates of the Nygard enterprise at various locations, including the Nygard Marina del Rey property:

(Nygard is on the left; Fitzgerald's hand is entering from the right)

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44. In recently uncovered video (screenshots below), Nygard and Fitzgerald were roaming a Brazilian beach looking for women. Upon meeting a 15-year old and an 18-year old, Fitzgerald is heard on the video asking the girl and young woman – "do you want to party with us today?"[4]

[4] https://www.dailymail.co.uk/news/article-9064991/Peter-Nygard-points-leers-girls-young-15-Brazilian-beach.html

45. Fitzgerald openly promotes the Nygard image in order to recruit, lure, and entice young women to attend the "pamper parties" and events at Nygard's properties.

46. Fitzgerald is even listed on Nygard Companies' employee contact lists as an employee at the Marina del Rey compound.

47. Fitzgerald has traveled on the Nygard Companies' corporate jet ("N-Force") to locations in South America, the Caribbean, and New York for the purpose of furthering and participating in the sex trafficking venture and enterprise.

48. Fitzgerald also knowingly recruits, lures, and entices young women to engage in commercial sex acts with himself and Nygard, flying them from, among other places, locations in Las Vegas, Nevada and San Jose, California.[5]

49. From 2008 until 2019, Nygard frequently traveled to California and stayed at his Marina del Rey property. On most such occasions, Fitzgerald would come to the Marina del Rey house for dinner, poker, and forced commercial sex acts with one of Nygard's "girlfriends" or other women.

50. As corroborated by the DOJ Indictment, personal friends and associates of Nygard would "swap" women with Nygard; Fitzgerald was the most notable of

[5] *See* https://www.instagram.com/p/B4I2E_OgQai/

those friends who, in exchange for sex acts, would bring a female with him to "offer" to Nygard.

51. In exchange for Fitzgerald's knowing recruitment for, participation in, and conspiracy in Nygard's continuing sex trafficking venture and enterprise, Nygard forced his "girlfriends" and/or sex workers to perform commercial sex acts with Fitzgerald.

52. Fitzgerald also uses his association with Nygard and the Nygard enterprise, and his attendance at "pamper parties," to benefit and promote himself and his business on social media, and to further the goals of the Nygard enterprise.[6]

53. Fitzgerald portrays himself as a playboy, entrepreneur, and partier who rents luxurious homes in Hollywood to celebrities and "influencers" for them to throw parties.[7] In doing so, he also promotes the purpose of the Nygard enterprise, which is to lure and recruit additional sex trafficking victims to engage in commercial sex acts with himself, Nygard, and other associates.

Jane Doe No. 1

54. In 2018, Jane Doe No. 1, at the time an employee and coerced sex worker of the Nygard Companies, and sex trafficking victim of Nygard and the Nygard Companies, met Fitzgerald and his female companion at Nygard's Marina del Rey property.

55. While in the jacuzzi with Jane Doe No. 1 and another female, Nygard directed Jane Doe No. 1 to engage in commercial sex acts with Fitzgerald against her will.

56. Fitzgerald then sexually assaulted Jane Doe No. 1, at Nygard's direction and against her will, in the jacuzzi.

57. Fitzgerald then escorted Jane Doe No. 1 to a bedroom and raped her, at

[6] *See* https://www.instagram.com/p/BehBmpwDZW-/; https://www.instagram.com/p/BjmAvU2A86k/; https://www.instagram.com/p/BrMcKpBn28C/; https://www.instagram.com/p/B3TwcWWAP2K/; https://www.instagram.com/p/B4I2E_OgQai/

[7] *See* https://www.dannyfitzgerald.com/; https://www.dannyfitzgerald.com/media

Nygard's direction and against her will, while at the same time Nygard had sexual intercourse with the other female provided to him by Fitzgerald.

Jane Doe No. 2

58. In 2008, Jane Doe No. 2, at the time an employee and coerced sex worker of the Nygard Companies, and sex trafficking victim of Nygard and the Nygard Companies, met Fitzgerald and his female companion at Nygard's Marina del Rey property.

59. Under false pretenses, Jane Doe No. 2 was lured into a bedroom with Nygard, Fitzgerald, and Fitzgerald's female companion.

60. Nygard directed Jane Doe No. 2 to engage in commercial sex acts with Fitzgerald against her will.

61. At the time, Nygard knew that Jane Doe No. 2 did not identify as heterosexual.

62. Fitzgerald sexually assaulted Jane Doe No. 2, completely disregarding her consent or wishes, while Nygard engaged in sexual acts with the other female provided to him by Fitzgerald.

Jane Doe No. 3

63. In 2009, Jane Doe No. 3, at the time an employee and coerced sex worker of the Nygard Companies, and sex trafficking victim of Nygard and the Nygard Companies, met Fitzgerald and his female companion at Nygard's Marina Del Rey property.

64. Nygard trafficked Jane Doe No. 3 to Fitzgerald on three separate occasions in 2009.

65. On each of the three occasions, Fitzgerald came to Nygard's house for dinner and poker, and each time, he brought a female companion. During the course of each evening, Nygard instructed Jane Doe No. 3 that she would be engaging in sexual activity with Fitzgerald later that evening, regardless of her consent.

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66. After the social evening ended, Nygard and Fitzgerald took Jane Doe No. 3 and Fitzgerald's female companion upstairs to Nygard's bedroom.

67. Fitzgerald then coerced Jane Doe No. 3 to engage in commercial sex acts with him, against her will. Nygard watched Fitzgerald and Jane Doe No. 3 have sexual intercourse for his own sexual gratification.

68. While Fitzgerald raped Jane Doe No. 3, Nygard engaged in sexual acts with Fitzgerald's female companion.

Jane Doe No. 4

69. In 2019, Jane Doe No. 4 met Nygard, and he invited her to live at his Marina del Rey property.

70. While living at Nygard's property, Jane Doe No. 4 was repeatedly required to indulge Nygard's sexual appetites against her will.

71. On multiple occasions while Jane Doe No. 4 was living there, Fitzgerald came to Nygard's house with a female companion for dinner and poker. On multiple such evenings, Nygard instructed Jane Doe No. 4 that she would be engaging in sexual activity with Fitzgerald later that evening, regardless of her consent.

72. After each such social evening ended, Nygard and Fitzgerald took Jane Doe No. 4 and Fitzgerald's female companion upstairs to Nygard's bedroom.

73. Fitzgerald coerced Jane Doe No. 4 to engage in commercial sex acts with him against her will. Nygard watched Fitzgerald and Jane Doe No. 4 have sexual intercourse for his own sexual gratification.

74. While Fitzgerald raped Jane Doe No. 4, Nygard engaged in sexual acts with Fitzgerald's female companion.

75. After a few months, Nygard notified Jane Doe No. 4 that she would no longer be staying at his house; Nygard suggested she contact Fitzgerald for a place to live.

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76. During June of 2019 or shortly thereafter, with no options and no money, Jane Doe No. 4 moved into Fitzgerald's house.

77. Shortly thereafter, Fitzgerald informed Jane Doe No. 4 that she was expected to engage in "threesomes" with Fitzgerald and his girlfriend.

78. Jane Doe No. 4 repeatedly attempted to avoid sexual contact with Fitzgerald.

79. On one or more occasions, Jane Doe No. 4 was sleeping and woke up to find Fitzgerald on top of her, raping her. Jane Doe No. 4 did not consent to this sexual act and on each occasion had her door locked prior to falling asleep.

80. After enduring this treatment several times, Jane Doe No. 4 decided to leave and told Fitzgerald of her intent to do so. In response, Fitzgerald became enraged, calling Jane Doe No. 4 a "whore" and a "nigger" before violently holding her down and attempting to suffocate her with his other hand.

81. Jane Doe No. 4 was not able to breathe or get up during Fitzgerald's attack.

82. Jane Doe No. 4 was in fear of Fitzgerald and what would happen if she left the property.

83. When Jane Doe No. 4 finally did escape, she did so in the dead of night, so as to avoid detection by, and physical harm from, Fitzgerald.

Plaintiffs Were Prevented from Previously Pursuing Their Claims.

84. Defendant's and Defendant's co-conspirators' and enterprise associates' violent and ongoing conduct created such extraordinary circumstances that Plaintiffs justifiably feared for their well-being and their lives, and they were prevented from meaningfully pursuing their claims any sooner than the date this lawsuit was filed.

85. As is relevant here, where Fitzgerald engaged in sex trafficking through the "swap" of Nygard's "girlfriends," Nygard and his co-conspirators and enterprise associates used various methods, including payments, to silence and intimidate such

victims: "***In some instances, Nygard intended these payments to secure a victim's silence. In other instances, Nygard intended these payments to facilitate future sexual activity with the victim induced through force, fraud, and coercion***." Ex. 1, ¶ 13 (emphasis added).

86. Nygard and his co-conspirators and enterprise associates cultivated a decades-long and industry-wide reputation, known to Plaintiffs, for silencing those who would speak out against them. The DOJ Indictment details the psychological coercion and manipulation that the Nygard enterprise uses to silence its victims: "Nygard maintained control over his victims through threats, promises to grant or withhold modeling opportunities and other career advancement, granting and withholding of financial support, and by other coercive means, including constant surveillance, restrictions of movement, and physical isolation." *Id.*, ¶ 12.

87. Indeed, it was widely reported, and known to Plaintiffs, that many victims had sought help through law enforcement and through the Nygard Companies, but were rebuffed, intimidated, silenced, and destroyed. The DOJ Indictment states that Nygard and other members of the Nygard enterprise "engaged in obstructive conduct aimed at preventing witnesses from reporting Nygard's sexual crimes." *Id.*, ¶ 3.

88. Such intimidation includes not only direct threats, but also the publicly known, decades-long reputation for silencing those who would speak out against Nygard and his co-conspirators and enterprise associates, such as Defendant – a reputation known to Plaintiffs and indeed known throughout the fashion industry and the entire social scene in which Nygard, Defendant, and their victims traveled. In the Canadian Arrest Warrant related to the DOJ Indictment and Extradition of Peter Nygard, evidence is put forth that Nygard and the Nygard enterprise used "corporate employees and funds to quash negative publicity related to allegations of sexual assault and sex trafficking and to engage in illegal witness tampering." *See* annexed Ex. 2, at ¶ 7(s)(vi).

89. Nygard and his co-conspirators and enterprise associates, including Defendant, engage in myriad coercive methods of intimidation, bribery, and witness tampering, including as recently as 2019 and 2020, in order to suppress the truth about Nygard's sex trafficking conspiracy, including as it relates to Plaintiffs:

> *Obstruction of justice/witness tampering –*
>
> (aa) ***During the past several decades, NYGARD has also repeatedly engaged in efforts to obstruct justice and tamper with potential witnesses against him. These efforts have included paying witnesses to provide false information***, monitoring contact between victims and U.S. law enforcement, and ***providing false information to witnesses, including those NYGARD knew had been contacted by U.S. law enforcement***; Examples include:
>
> > (i) In or about 2016, after learning about a federal criminal investigation, NYGARD directed Victim-6 to provide testimony establishing that Minor Victim-1 was an adult under U.S. law, when she travelled with NYGARD. Victim-6, who believed at the time that Minor Victim-1 was 18 or older, agreed, and offered sworn statements at what she understood to be a civil deposition. After NYGARD subsequently rewarded her with a $2,000 cash bonus, she later learned that Minor Victim-1 was under age 18;
> >
> > (ii) Messages recovered from NYGARD's phone demonstrate that in or about December of 2019, a witness who had been lawfully served by the FBI with a subpoena ("Female-2") sent NYGARD a photograph of the FBI agent's business card. About 20 days later, NYGARD sent Female-2 another message falsely telling her that the agent was a "fake.";
> >
> > * * *
> >
> > (iii) ***Another longtime "girlfriend" ("Female-3") advised Victim-3 that in the summer of 2020, after the U.S. investigation had been revealed, NYGARD contacted Female-3 from another person's phone to convey, in substance, that if she were not on his "side" then she was "going down.***"

Ex. 2 at ¶¶ 18-19 (emphasis added).

90. Due to the violent nature of rape and the brutal methods of abuse and psychological coercion and manipulation employed by Nygard, Fitzgerald, and other associates of the Nygard enterprise against Plaintiffs, along with the coordinated methods of control, coercion, fraud, and intimidation, Plaintiffs legitimately feared—and continue to fear—for their lives.

91. Nygard and the Nygard enterprise also use violence, threats of violence, bribery, and corruption to intimidate and silence their victims and those that they believe have "betrayed" Nygard or the enterprise. Nygard and the Nygard enterprise have silenced their victims by, among other means, having their tires slashed, committing arson, hiring thugs to intimidate their victims, having their victims followed, engaging in murder-for-hire plots, and otherwise threatening their victims with death.

92. Moreover, Nygard's and the Nygard enterprise's intimidation in the form of coordinated displays of power and international influence, both monetary and political, have continuously led Nygard's and the Nygard enterprise's many victims, which include Plaintiffs here in coordinated assaults by Nygard and Defendant, to believe that they would have no safe or effective avenue for relief for pursuing their claims.

93. Nygard's confirmed and alleged payoffs to law enforcement in the Bahamas and Canada, repeated statements to victims such as, "I own the police," and his hiring of Bahamian police officers as security guards for his pamper parties and other events at Nygard Cay at which women and girls were drugged and raped, all served to send a clear and consistent message to victims that they would not be safe to report their victimization to law enforcement.

94. Plaintiffs knew they could be found and harmed at any time by Nygard, Defendant, or their other associates in the Nygard enterprise, as it was routine practice for Nygard to keep victims' passports and other identification, or copies thereof, in his private possession, typically in a locked cabinet.

95. Plaintiffs feared—and continue to fear—for their livelihood and safety.

96. The crimes here were committed by both Nygard and Fitzgerald, who conspired with each other to traffic Plaintiffs, thus invoking the fear based on the Nygard enterprise's sprawling intimidation machine.

97. This control, manipulation, and intimidation rendered Nygard's and the Nygard enterprise's victims, which include Plaintiffs here, effectively incapacitated from being able to understand and assert their rights. Plaintiffs thus have been effectively prevented until now from exercising their rights to confront Defendant, Nygard, and the Nygard Companies – prevented until they were assured that authorities were investigating the Nygard enterprise's crimes in earnest, that their identities would be protected, and, ultimately, that Nygard and his enterprise would not be free to wield their considerable influence to harm them for pursuing justice against him and his co-conspirators.

98. The violent nature of rape and the brutal methods of abuse,[8] along with the coordinated methods of coercion and intimidation by Nygard and co-conspirators, caused Plaintiffs significant mental and emotional harm such that they felt they could not re-traumatize[9] [10] themselves or further endanger themselves by going up against powerful men, backed by global corporations and corruption. "[T]he trauma experienced by victims of trafficking includes anxiety, depression,

[8] "Rape is one of the most severe of all traumas, causing multiple, long-term negative outcomes, such as post-traumatic stress disorder (PTSD), depression, substance abuse, suicidality, repeated sexual victimization, and chronic physical health problems." Kilpatrick, D. G., & Acierno, R.: "Mental health needs of crime victims: Epidemiology and outcomes." Journal of Traumatic Stress, Vol. 16, 2003, pp119–132.

[9] "When victims reach out for help, they place a great deal of trust in the legal, medical, and mental health systems as they risk disbelief, blame, and refusals of help. How these system interactions unfold can have profound implications for victims' recovery." Campbell, Rebecca, "The Psychological Impact of Rape Victims' Experiences With the Legal, Medical, and Mental Health Systems," American Psychologist, November 2008, p. 702.

[10] "Post-assault help seeking can become a "second rape," a secondary victimization to the initial trauma." Campbell, R., & Raja, S., "The secondary victimization of rape victims: Insights from mental health professionals who treat survivors of violence." *Violence & Victims, 14,* 2008, 261–275.

alienation, disorientation, aggression, suicide ideation, attention deficit, and post-traumatic stress disorder (PTSD)."[11] Further, that "trauma worsens during the trafficking process and persists far beyond the end of any exploitation."[12]

99. Studies show that rape is one of the least reported of all violent crimes in the United States and that victims do not report because of fear of retaliation from their perpetrator.

100. Studies also show that negative social consequences to disclosing rape to family members and friends form significant inhibitions, further incapacitating victims to speak about their experiences even to people they love and trust. These include notions of becoming an emotional burden, experiencing a loss of privacy, being shamed and blamed, being disbelieved, being labelled (and as such, being unable to move out from under a negative label, such as "victim," "whore," "dirty," "tainted," "weak"), and being the cause of mental and emotional strife for the person/people they disclose to.

101. It is also common for rape survivors to fear violent retaliation against their attacker by family members and friends, particularly male. Thus, they will avoid disclosing their victimhood in order to ensure that their brothers, fathers, husbands and other male friends and relatives do not cause physical harm to their rapists which would in turn put those friends and relatives at risk of being charged and convicted of criminal offences themselves. This is best illustrated in victims' responses to interview questions by lawyers, law enforcement and therapists such as, "Why didn't you tell anyone?" Victim response: "I knew my dad/brother/boyfriend would find him and kill him, so I kept it to myself. I didn't want [relative] to go to jail."

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[11] Okech, David, *et. al.*, "Social Support, Dysfunctional Coping, and Community Reintegration as Predictors of PTSD Among Human Trafficking Survivors." Behavioral Medicine, Vol. 44, 2018, 209-218).

[12] *Id.*

102. The DOJ Indictment corroborates that the Nygard enterprise employed various resources "to intimidate, threaten, and corruptly persuade individuals who alleged that Nygard was engaged in sexual assault and sex trafficking in the United States, Bahamas, Canada and elsewhere, including by paying witnesses for false statements and affidavits; threatening witnesses with arrest, jail, prosecution, civil litigation, and reputational harm; and attempting to cause reputational harm and discredit potential witnesses by disseminating false or embarrassing information." Ex. 1 at ¶ 10(h).

103. In this case, Defendant has already indicated his intention to "out" Plaintiff Jane Doe Nos. 1-4 and discredit them by claiming they have brought this case not for the truth, but rather, because they are simply "looking for a payday."

104. Because of the actions by Nygard and other associates of the Nygard enterprise, including Defendant, victims reasonably fear for their lives, particularly given the violent nature of the crimes, the reasonable belief that attempting to report such crimes is hopeless, and the careful coordination by the Nygard enterprise of the methods of violence and intimidation, including false imprisonment, drugging, and threats.

105. Likewise, in accordance with the practices of the Nygard enterprise, Fitzgerald himself has used violence against his victims to force their silence and acquiescence.

106. Cases associated with the Nygard Sex Trafficking Racketeering Enterprise involving Nygard and Defendant Fitzgerald present a unique set of circumstances that require a unique perspective. The confluence of myriad factors, listed below, led each of the Jane Does to a legitimate fear for her and her family's livelihood, safety, and well-being, thus incapacitating Plaintiffs from practically and effectively understanding and asserting their rights. The factors eliciting fears of death, bodily and psychological harm, and other grievous injury in this case are:

a. The Nygard enterprise's wealth and connection to prominent politicians and law enforcement agents in multiple nations;

b. Nygard's and Fitzgerald's brutal and coordinated violent rapes;

c. Nygard instructing and coercing women to have sex with his close friend and co-conspirator, Fitzgerald;

d. Fitzgerald's wealth and use of violence to suppress his victims;

e. Fitzgerald's indifference to the rules of law by his rape and trafficking of women;

f. Nygard's and Fitzgerald's utter indifference to the rules of law by their brazen violent acts;

g. Nygard's abilities to manipulate and control people, honed by his own malignant narcissism, as well as his relentless study of dictators such as Hitler and cult leaders such as Jim Jones;

h. Nygard's, Fitzgerald's, and the Nygard enterprise's sprawling infrastructure of employees and "girlfriends" that, to please Nygard and/or avoid reprisal by him, enticed, lured, recruited, transported, harbored, maintained, and intimidated witnesses;

i. The Nygard enterprise's active intimidation tactics, including constant surveillance and other harassment measures; and

j. The Nygard enterprise's known connections to organized crime and other underground figures, such as drug dealers, murderers, and gang members (demonstrated poignantly by Hell's Angel associate and convicted drug trafficker, Steve Mager, being one of two people recently attempting to post surety to allow for Nygard's release from jail).

107. Further, Nygard and his conspirators and enterprise associates actively coordinated to brainwash, shame, intimidate, and terrify victims, including Plaintiffs, into a cult-like, paralyzing fear that prevented them from being able to

understand and/or assert their rights prior to filing this suit. Nygard and his conspirators honed patterns of praise-berate-reward-punish behaviors that pulled victims into a control cycle of adjusting their responses to such behaviors in order to elicit the positive and avoid the negative, to the point that some became unable at various points to know right from wrong, or to distinguish between helpers and harmers. This allowed victims, including Plaintiffs, to be held as indentured laborers by what are known in trafficking lingo as "the invisible chains," and to remain devoid of the knowledge or understanding that what was happening to them was indeed criminal.

108. Nygard's control of people, particularly his "girlfriends" such as Plaintiffs, was complete and ruthless. He would withhold passports, payment, travel, and lodging, unless his every demand was met. He monitored and restricted food intake and employed sleep deprivation tactics as further methods of psychological control. He disallowed privacy, constantly surveilling and recording his "girlfriends'" and employees' every activity. Any protest or attempt to fight back was met with swift and cruel retribution, including physical and sexual assaults.

109. Further, even after his victims leave his direct control, Nygard often continues to attempt to contact them, in an intimidating manner, intending to instill fear in his victims and remind them of his power and ability to hurt them.

110. In some cases, such as with Jane Doe No. 4, instead of letting this victim leave his control, Nygard instead "passed" her to Fitzgerald for further manipulation, control, sex trafficking, and abuse. Consequently, instead of being free of her trafficker, Jane Doe No. 4 was trafficked and further abused within the criminal enterprise.

111. Further, the convoluted structure of the enterprise and scheme alone, including the murky corporate waters of the Nygard Companies, as well as the labyrinth of covert recruiters, obfuscated the true nature of the racketeering enterprise, thus concealing the true landscape from victims, including Plaintiffs.

112. To wit, some victims have reported continuing to believe that their recruiters were their friends for years following their trafficking and sexual assault. Those who got caught for any length of time in Nygard's scheme often came to believe that he cared about them, since he frequently pointed out how lucky they were to have the opportunities for career growth, travel, and industry connections that he claimed to be providing. Typically, it is only through psycho-education about trafficking given by experts (therapists, lawyers, victim advocates, law enforcement), or through learning about the trafficking experiences of others in books, film, and media that trafficking victims enlighten to the fact that their "friend," "boyfriend," "agent," or "employer," was actually a pimp, recruiter, or trafficker.

113. Due to the temporal, geographical, and numerical breadth of Nygard's and Defendant's schemes, and due to the success of Nygard's and Defendant's efforts to suppress knowledge and conceal information about their schemes, and due to Plaintiffs' justifiable lack of knowledge of such facts until now, it would have been impossible for Plaintiffs to know or understand many of the claims they have against Defendant, Nygard, or the Nygard Companies.

114. Plaintiffs largely were not aware of the wide ranging scheme of abuse outside of their own victimization, and thus could not have known of a broader RICO enterprise or trafficking scheme – in part due to ignorance of the legal protections available to them and in part due to Defendants' concerted efforts to obfuscate their crimes.

115. Compounding the belief that they were alone in their victimization are the negative cognitions of self (*i.e.*, "I am powerless," "I am worthless," "It's my fault," "I'm stupid," "I'm dirty") that form in response to trauma, particularly sexual trauma. These beliefs combine with anticipated social reactions and consequences (such as people impugning their motives if they do come forward) to play a

significant psychological role in immobilizing the victim from coming forward.[13]

116. It was not until Nygard was sued in a class action lawsuit,[14] as well as investigated by the FBI,[15] that Plaintiffs became aware that they were victims of a coordinated sex trafficking enterprise and felt they could pursue their claims without risk of harm or death.

117. Nygard and his conspirators and enterprise associates stepped up their intimidation tactics in the last two years. In the summer of 2019, Nygard became aware that the *New York Times* was actively investigating his sex trafficking venture and racketeering enterprise.

118. Nygard also became aware that the FBI and DOJ were investigating his sex trafficking venture and racketeering enterprise when they raided his New York and California properties on February 26, 2020.

119. In response, Nygard took several offensive measures to try to keep his sex trafficking venture and racketeering enterprise concealed, including threatening the *New York Times*, suing the *New York Times*, concocting false conspiracy theories, and enlisting his most trusted "girlfriends" and associates to cover-up his and their crimes. Upon information and belief, these individuals were paid thousands of dollars in cash and benefits during 2019 and 2020 to keep quiet and lie for Nygard.

120. The intimidation tactics of Nygard are acutely relevant in this case because Jane Does here are the victims of a conspiracy between Nygard and Fitzgerald to sex traffic, rape, sexually assault, and/or sexually batter them. Both Nygard and Fitzgerald are complicit and liable for the acts herein alleged.

121. Further, prior to Nygard's indictment by the U.S. federal government and arrest, Defendant communicated with Nygard on options to flee the jurisdiction

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[13] Ahrens, Courtney, "Being Silenced: The Impact of Negative Social Reactions on the Disclosure of Rape," American Journal of Community Psychology, Vol. 38, 2006, pp. 263-274.

[14] *Id.*

[15] https://www.nytimes.com/2020/02/25/us/peter-nygard-international-fbi-raid.html.

and get to a country without extradition treaties to the U.S.

122. Due to Defendant's conspiracy and enterprise with Nygard, and his close association with him as a recruiter and fellow sex trafficker, Plaintiffs legitimately feared for their lives as well as other forms of retaliation if they pursued claims against Defendant for trafficking them.

CLAIMS ALLEGED

COUNT I

VIOLATION OF THE TRAFFICKING VICTIMS PROTECTION ACT, 18 U.S.C. § 1595

123. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1-122, as if fully set forth in this Count.

124. Plaintiffs are victims of violations of Chapter 77 of Title 18 of the United States Code, to wit, 18 U.S.C. § 1591(a), insofar as:

a) Fitzgerald, Nygard, the Nygard Companies, and others acting in concert with them knowingly recruited, enticed, harbored, transported, provided, obtained, maintained, patronized, and/or solicited Plaintiffs by multiple means to commit one or more commercial sex acts [as defined at 18 U.S.C. § 1591(e)(3)];

b) Fitzgerald, Nygard, the Nygard Companies, and others acting in concert with them knowingly benefitted, financially or by receiving anything of value, from participation in a venture [as defined at 18 U.S.C. § 1591(e)(4)] which has engaged in an act described in (a) in which Plaintiffs were the victims;

c) the acts described in (a) and (b) involving Plaintiffs occurred in or affected interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States; and

d) Fitzgerald, Nygard, the Nygard Companies, and others acting in concert with them committed the acts described in (a) and (b) knowing, or in reckless disregard of the fact, that means of force, threats of force, fraud, coercion [as defined at 18 U.S.C. § 1591(e)(2)], or any combination of such means would be used to

cause Plaintiffs to engage in one or more commercial sex acts.

125. Plaintiffs are victims of violations of Chapter 77 of Title 18 of the United States Code, to wit, 18 U.S.C. § 1591(d), insofar as Fitzgerald, Nygard, the Nygard Companies, and others acting in concert with them obstructed, attempted to obstruct, and/or interfered with or prevented the enforcement against them of 18 U.S.C. § 1591 in connection with their actions of which Plaintiffs were victims.

126. Plaintiffs were forced to engage in commercial sex acts as defined at 18 U.S.C. § 1591(e)(3).

127. Within the meaning of 18 U.S.C. § 1595, Defendant Fitzgerald is a perpetrator of the violations of 18 U.S.C. § 1591 set forth above in which Plaintiffs were victims:

a) Fitzgerald, acting alone and in concert with others, knowingly recruited, enticed, harbored, transported, provided, obtained, maintained, patronized, and/or solicited Plaintiffs by multiple means to commit one or more commercial sex acts [as defined at 18 U.S.C. § 1591(e)(3)];

b) Fitzgerald, acting alone and in concert with others, knowingly benefitted, financially or by receiving anything of value, from participation in a venture [as defined at 18 U.S.C. § 1591(e)(4)] which has engaged in an act described in (a) in which Plaintiffs were the victims;

c) Fitzgerald, acting alone and in concert with others, committed the acts described in (a) and (b) knowing, or in reckless disregard of the fact, that means of force, threats of force, fraud, coercion [as defined at 18 U.S.C. § 1591(e)(2)], or any combination of such means would be used to cause Plaintiffs to engage in one or more commercial sex acts; and

d) Fitzgerald, acting alone and in concert with others, obstructed, attempted to obstruct, and interfered with or prevented the enforcement against them of 18 U.S.C. § 1591 in connection with their actions of which Plaintiffs were the victims.

128. Defendant's violation of 18 U.S.C. § 1591, giving rise to a cause of action under 18 U.S.C. § 1595, has continued without interruption since Defendant first met Plaintiffs.

129. Defendant's conduct has caused and continues to cause Plaintiffs serious and permanent harm, including, without limitation, physical, nonphysical, psychological, financial, and reputational harm.

130. Under the TVPRA, 18 U.S.C. § 1595, Plaintiffs are entitled to recover from Defendant damages and reasonable attorney's fees.

COUNT II

PARTICIPATING IN A VENTURE IN VIOLATION OF THE TRAFFICKING VICTIMS PROTECTION ACT, 18 U.S.C. § 1595

131. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1-122, as if fully set forth in this Count.

132. Defendant participated in a venture with Nygard and the Nygard Companies, in violation of 18 U.S.C. § 1591(a)(2).

133. Defendant knowingly benefited from, and received value for, his participation in the venture, in which Defendant and Nygard would lure, entire, recruit, solicit, provide, obtain, and transport Plaintiffs, to engage in commercial sex acts with Defendant.

134. Defendant knew, or was in reckless disregard of the fact, that it was Nygard's pattern and practice to use the channels and instrumentalities of interstate and foreign commerce, as well as the Nygard Companies' resources, to entice, recruit, solicit, or cause young and underage individuals to engage in commercial sex acts, and offering something of value in exchange for the sexual act.

135. Defendant had actual knowledge that he was facilitating and participating in Nygard's use of company resources to recruit, entice, harbor, transport, provide, obtain, maintain, patronize, and/or solicit Plaintiffs and others, through force, fraud, or coercion, into commercial sex acts.

136. Despite such knowledge, Defendant facilitated and participated in Nygard's violations of 18 U.S.C. § 1591, where Defendant knew, or was in reckless disregard of the facts that, Nygard would lure, entice, harbor, transport, provide, obtain, maintain, patronize, and/or solicit Plaintiffs, through force, fraud, or coercion, to engage in commercial sex acts.

137. Defendant and/or Defendant's co-conspirators also provided or promised Plaintiffs items of value in exchange for engaging in the sexual acts with Defendant, including flights, lodging, and cash.

138. In exchange for facilitating, participating in, and covering up Nygard's scheme, Defendant received significant financial benefits and online exposure to promote and grow his own company.

139. Defendant's conduct has caused and continues to cause Plaintiffs serious and permanent harm, including, without limitation, physical, nonphysical, psychological, financial, and reputational harm.

COUNT III

CONSPIRACY TO COMMIT VIOLATION OF THE TRAFFICKING VICTIMS PROTECTION ACT, 18 U.S.C. § 1595

140. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1-122, as if fully set forth in this Count.

141. Defendant conspired, by agreement or understanding, to further Nygard's unlawful plan and/or purpose to commit illegal commercial sex acts with Plaintiffs.

142. Defendant committed overt acts in furtherance of the agreement or understanding by playing an active role in trafficking Plaintiffs and by engaging in commercial sex acts with them.

143. Defendant and/or his co-conspirators provided or promised Plaintiffs items of value in exchange for engaging in the sexual acts with Defendant, including but not limited to, air flights, lodging, food, and cash.

144. Defendant's participation in the furtherance of Nygard's illegal sex trafficking venture, plan, and/or purpose was intentional and/or willful and, therefore, Defendant intentionally and/or willfully caused Nygard's facilitation of the sex acts with Plaintiffs in his affirmative acts supporting Nygard.

145. Defendant knew that his acts and conduct supporting and facilitating Nygard would lead to unlawful commercial sex acts facilitated by Nygard and involving Plaintiffs.

146. Defendant conspired with Nygard through his affirmative acts and provided substantial support to Nygard causing commercial sex acts upon Plaintiffs.

147. Defendant's conduct has caused and continues to cause Plaintiffs serious harm, including, without limitation, physical, psychological, financial, and reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing commercial sexual activity in order to avoid incurring that harm.

COUNT IV

CIVIL RICO, 18 U.S.C. § 1964(c)

148. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1-122, as if fully set forth in this Count.

149. Fitzgerald violated RICO, 18 U.S.C. § 1962:

a) An "enterprise" as defined in RICO "includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity." 18 U.S.C. § 1961(3). Fitzgerald, Nygard, the Nygard Companies, and others employed by or associated with them, or acting in concert with them, to promote, facilitate, finance, or otherwise effectuate the Nygard Sex Trafficking Racketeering Enterprise and/or Nygard's coercive commercial sex acts, as alleged in this Complaint, constitute an enterprise under this definition. By virtue of its operations in Manitoba, New York,

Florida, California, the Bahamas, and other places, this enterprise engaged in, or had activities which affect, interstate or foreign commerce.

b) Fitzgerald, Nygard, the Nygard Companies, and others acting in concert with them as part of the aforementioned enterprise engaged in racketeering activity within the meaning of RICO, 18 U.S.C. §1961(1)(B), when they engaged in acts "indictable under" 18 U.S.C. §§ 1581-1592 (the statutes relating to peonage, slavery, and trafficking in persons), to wit, the acts in violation of 18 U.S.C. § 1591 alleged in Counts I-III and specified in this Complaint, and the acts alleged in the DOJ Indictment.

c) Fitzgerald, Nygard, the Nygard Companies, and others acting in concert with them as part of the aforementioned enterprise engaged in a pattern of racketeering activity within the meaning of RICO, 18 U.S.C. §1961(5), when they committed two or more separate acts constituting a pattern of racketeering activity, the last of which occurred within ten years after the commission of a prior act of racketeering activity. Specifically, Fitzgerald and others in the enterprise committed multiple acts in violation of 18 U.S.C. § 1591(a) over the course of several years from 2008 to 2019 when Plaintiffs were sexually assaulted, and then committed multiple additional acts in the ensuing years (including in 2020) in violation of 18 U.S.C. § 1591(d) to obstruct or interfere with the enforcement of § 1591 by conspiring to cover up the Nygard Sex Trafficking Racketeering Enterprise and actively working to intimidate or tamper with witnesses, among other obstructive acts alleged above and corroborated in the DOJ Indictment.

d) Fitzgerald thus violated RICO, 18 U.S.C. § 1962(c), which makes it "unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity …." Fitzgerald was employed by or associated with the enterprise, and he conducted or participated (directly or

indirectly) in the conduct of the enterprise's affairs by engaging in a pattern of racketeering activity as alleged above.

150. Plaintiffs were injured and continue to be injured in their business or property by reason of Fitzgerald's violation of 18 U.S.C. § 1962. Defendant's violation has caused and continues to cause Plaintiffs serious and permanent economic harm, including, without limitation, financial and reputational harm, including harm to their careers and business and professional prospects.

151. Under the CRRA, 18 U.S.C. § 1964(c), Plaintiffs are entitled to recover from Defendant "threefold the damages" they have sustained, and the cost of the suit, including a reasonable attorney's fee.

COUNT V

SEXUAL BATTERY IN VIOLATION OF CALIFORNIA CIVIL CODE § 1708.5 AND COMMON LAW

152. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1-122, as if fully set forth in this Count.

153. Defendant intentionally committed sexual battery on all Plaintiffs in the State of California in violation of California law.

154. Defendant acted with the intent to cause a harmful and offensive contact with an intimate part of each Plaintiff, and a sexually offensive contact with each Plaintiff directly or indirectly resulted.

155. Defendant acted with the intent to cause a harmful and offensive contact with each Plaintiff, by use of his intimate parts, and a sexually offensive contact with each Plaintiff directly or indirectly resulted.

156. Defendant also acted to cause an imminent apprehension or fear of a harmful and offensive contact with each Plaintiff's intimate parts.

157. Plaintiffs did not consent to Defendant's harmful and offensive contact and/or were coerced in to such harmful and offensive contact.

158. Plaintiffs were harmed and/or offended by Defendant's conduct.

Defendant's conduct has caused Plaintiffs serious and permanent harm and/or damages, including, without limitation, physical, psychological, emotional, financial, and reputational harm.

COUNT VI

CIVIL CONSPIRACY IN VIOLATION OF CALIFORNIA LAW

159. Plaintiffs reallege and incorporate by reference the allegations contained in paragraphs 1-122, as if fully set forth in this Count.

160. Defendant, Nygard, and the Nygard Companies have participated in the continuing conspiracy to commit sexual battery and to cover-up their conspiracy.

161. Defendant, Nygard, and the Nygard Companies formed a group of two or more persons who conspired and agreed to a common plan or design to commit tortious acts, including sexual battery.

162. Defendant had actual knowledge that tortious acts including sexual battery were planned by him and his co-conspirators, and he concurred and participated in the tortious scheme with knowledge of its unlawful purpose.

163. Defendant intended to aid his co-conspirators in the commission of the planned tortious acts, including sexual battery.

164. Defendant committed numerous wrongful acts, including sexual battery, against Plaintiffs in the State of California pursuant to his agreement with his co-conspirators.

165. Defendant conspired with Nygard and the Nygard Companies because he desired commercial sex acts from Plaintiffs and other victims of the Nygard Sex Trafficking Racketeering Enterprise.

166. Defendant's affirmative conduct in furtherance of the conspiracy was undertaken with the express and/or implied agreement or understanding that Nygard would use the Nygard Companies' money and brand, the promise of modeling careers, and his influence in the fashion industry to facilitate and/or enable the sexual battery of Plaintiffs.

167. Plaintiffs were battered and damaged as a direct result of Defendant's agreement and actions in furtherance of the conspiracy.

168. Defendant's conduct has caused and continues to cause Plaintiffs serious and permanent harm and/or damage, including, without limitation, physical, psychological, emotional, financial, and reputational harm.

REQUEST FOR RELIEF

Plaintiffs respectfully request that the Court enter judgment in their favor, and against Defendant, as follows:

a. That the Court grant permanent injunctive relief to prohibit Defendant from continuing to engage in the unlawful acts and practices described herein;

b. That the Court award Plaintiffs compensatory, consequential, general, and normal damages in an amount to be determined at trial;

c. That the Court award punitive or exemplary damages in an amount to be determined at trial;

d. That the Court award to Plaintiffs the costs and disbursements of the action, along with reasonable attorneys' fees, costs, and expenses;

e. That the Court award pre- and post-judgment interest at the maximum legal rate; and

f. That the Court grant all such other relief as it deems just and proper.

JURY DEMAND

Plaintiffs demand a trial by jury on all claims so triable.

Dated: February 8, 2021

By: */s/ Deborah S. Dixon*

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EXHIBIT 1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA	:	
- v. -	:	SEALED INDICTMENT
PETER NYGARD,	:	20 Cr. 624 (___)
Defendant.	:	

COUNT ONE

(Racketeering Conspiracy)

The Grand Jury charges:

Background

1. At all times relevant to this Indictment, PETER NYGARD, the defendant, was the leader and founder of an international clothing design, manufacturing, and supply business headquartered in Winnipeg, Canada, with major offices and warehouses in the United States, including New York City and California. The fashion business has multiple product lines and brands, many of which bear variants on the name "Nygard."

2. At all times relevant to this Indictment, PETER NYGARD, the defendant, operated a constellation of corporate entities organized in various countries, including Canada, the United States, the Bahamas, Barbados, and Hong Kong (the "Nygard Group"). Certain of the Canadian and U.S. entities in the Nygard Group directly operate NYGARD's fashion business.

3. At all times relevant to this Indictment, PETER NYGARD, the defendant, and others known and unknown, including employees of the Nygard Group, used company funds, employees, resources, and influence to recruit, entice, transport, harbor, and maintain adult and minor-aged female victims for NYGARD's sexual gratification and, on occasion, the gratification of NYGARD's personal friends and business associates by, among other things, sex trafficking, interstate and international transport for purposes of engaging in prostitution and other illegal sexual activities, and related offenses. NYGARD, and others known and unknown, including employees of the Nygard Group, used force, fraud, and coercion to cause women to engage in commercial sex with NYGARD and others, and to remain with NYGARD against their will. NYGARD, and others known and unknown, including employees of the Nygard Group, have engaged in obstructive conduct aimed at preventing witnesses from reporting NYGARD's sexual crimes.

The Nygard Enterprise

4. The Nygard Enterprise, including its leadership, its membership, and its associates, constitutes an "enterprise" as defined in Title 18, United States Code, Section 1961(4), that is, a group of entities and individuals associated in fact. The Nygard Enterprise ("Nygard Enterprise" or the "Enterprise") consists of: (i) PETER NYGARD, the defendant; (ii) entities within the Nygard Group, including but not limited to Nygard, Inc. (a United States

entity), Nygard International Partnership (a Canadian entity), and Nygard Holdings, Ltd. (a Bahamian entity); (iii) individuals employed by the Nygard Group; and (iv) others known and unknown.

5. The Enterprise constitutes an ongoing organization whose members function as a continuing unit for the common purpose of achieving the objectives of the Enterprise. The Nygard Enterprise operates in the Southern District of New York and elsewhere. At all times relevant to this Indictment, the Enterprise has engaged in, and its activities affected, interstate and foreign commerce.

Purposes of the Enterprise

6. The purposes of the Enterprise included the following:

a. Operating an international clothing design, manufacturing, and supply business;

b. Preserving, protecting, promoting, and enhancing the power, reputation, and profits of the Enterprise;

c. Enriching members and associates of the Enterprise, including PETER NYGARD, the defendant, who was the leader of the Enterprise; and

d. Preserving, protecting, promoting, and enhancing the reputation of PETER NYGARD, the defendant.

Purposes of Nygard and His Co-Conspirators

7. The purposes of PETER NYGARD, the defendant, and his co-conspirators in the racketeering conspiracy were to use the façade of legitimacy created by the Enterprise, as well as the Enterprise's business operations, reputation, and resources, to facilitate and to conceal their racketeering activity, including sex trafficking, interstate and international transport for purposes of engaging in prostitution and other illegal sexual activities, and related offenses.

The Racketeering Conspiracy

8. From at least in or about 1995, up to and including in or about 2020, in the Southern District of New York and elsewhere, PETER NYGARD, the defendant, and others known and unknown, being persons employed by and associated with the Enterprise described in Paragraphs One through Six of this Indictment, knowingly combined, conspired, confederated, and agreed together and with each other to violate the racketeering laws of the United States, to wit, Section 1962(c) of Title 18, United States Code, that is, to conduct and participate, directly and indirectly, in the conduct of the affairs of the Enterprise, which was engaged in, and the activities of which affected, interstate and foreign commerce, through a pattern of racketeering activity consisting of:

Multiple acts indictable under:

a. Title 18, United States Code, Sections 1591 and 2 (sex trafficking of minors and by force, fraud and coercion);

b. Title 18, United States Code, Sections 2421 and 2 (transportation for purposes of prostitution and other illegal sexual activities);

c. Title 18, United States Code, Sections 1512 and 2 (obstruction of justice); and

d. Title 18, United States Code, Sections 1956 and 2 (money laundering).

9. It was a part of the conspiracy that the defendant agreed that a conspirator would commit at least two acts of racketeering activity in the conduct of the affairs of the Enterprise.

Means and Methods of the Racketeering Conspiracy

Overview

10. PETER NYGARD, the defendant, and others known and unknown, used various means and methods to solicit NYGARD's victims, who were then forcibly sexually assaulted, drugged, and/or coerced into sexual contact with NYGARD. NYGARD and other Nygard Group employees also transported victims over state and international lines, at NYGARD's sole direction and authority, for sex with NYGARD. Among the means and methods by which NYGARD and others pursued their illegal purposes were the following:

a. Using the ruse of modeling and other fashion industry jobs or other career advancement in order to lure victims into NYGARD's orbit and to keep them there.

b. Using Nygard Group funds to pay for "Pamper Parties" -- named for the free food, drink, and spa services that NYGARD made available at such parties -- and other victim recruitment tools, to pay sexual partners, often referred to as "girlfriends," some of whom were victims of NYGARD, and to pay for various expenses for "girlfriends," including travel, living expenses, dental work, immigration assistance, plastic surgery, abortions, child support, and medical treatments. Payments to "girlfriends" and other victims were often thinly disguised as payroll or payments for professional contracts, with the "girlfriends" sometimes identified as models, personal assistants, or "ComCor," employees, a Nygard Group shorthand for "communications coordinator."

c. Using Nygard Group employees to organize Pamper Parties and other victim-recruitment events, directly recruit victims, arrange travel for "girlfriends" and other victims, manage payments to "girlfriends," and manage the payment of "girlfriend" and victim-related expenses.

d. Using Nygard Group employees, including members of ComCor, to recruit women and girls to attend Pamper Parties, dinners, and poker games by sending invitations and

follow-up communications to prospective guests and to associates of NYGARD, who also recruited victims to come to the events. ComCor employees screened attendees for their physical appearance to confirm that they would appeal to NYGARD before allowing them onto a NYGARD property. They also photographed attendees and maintained a register of personal information of all attendees, documenting, among other things, attendees' names, contact information, weights, and physical measurements.

e. Using corporate travel employees of the Nygard Group and other Nygard Group resources, including a private plane, to arrange interstate and international travel for "girlfriends" and other victims. Nygard Group employees kept records of these travel itineraries and of travel documents for "girlfriends" and other victims, including copies of adult victims' passports and, in at least one case, a copy of a minor victim's passport.

f. Using Nygard Group employees for property management, security services, and as drivers. In these capacities, Nygard Group Employees arranged accommodations for "girlfriends," facilitated Pamper Parties, dinners, and poker games used to recruit and abuse victims, and controlled access to and from NYGARD's properties, including refusing to let women and girls, including "girlfriends," leave without NYGARD's approval. Drivers were also responsible for transporting NYGARD and "girlfriends" to swingers' clubs.

g. Using Nygard Group employees and funds to garner good publicity and to quash negative publicity related to allegations that NYGARD raped or assaulted women and girls.

h. Using Nygard Group employees and funds to intimidate, threaten, and corruptly persuade individuals who alleged that NYGARD was engaged in sexual assault and sex trafficking in the United States, Bahamas, Canada, and elsewhere, including by paying witnesses for false statements and affidavits; threatening witnesses with arrest, jail, prosecution, civil litigation, and reputational harm; and attempting to cause reputational harm and discredit potential witnesses by disseminating false or embarrassing information.

Nygard's Victims

11. PETER NYGARD, the defendant, and others known and unknown, including employees of the Nygard Group, used fraud, force, and coercion to cause at least dozens of adult and minor-aged female victims to engage in commercial sex by recruiting, enticing, transporting, harboring, and maintaining adult and minor-aged female victims for NYGARD's sexual gratification and, on occasion, the gratification of NYGARD's personal friends and business associates.

12. PETER NYGARD, the defendant, and others known and unknown, frequently targeted women and minor-aged girls who came from disadvantaged economic backgrounds and/or who had a history

of abuse. NYGARD maintained control over his victims through threats, promises to grant or withhold modeling opportunities and other career advancement, granting and withholding of financial support, and by other coercive means, including constant surveillance, restrictions of movement, and physical isolation. NYGARD forcibly sexually assaulted some of his victims. Other victims were forcibly assaulted by NYGARD's associates or drugged to ensure their compliance with NYGARD's sexual demands. Some of NYGARD's victims were minors.

13. To recruit victims, PETER NYGARD, the defendant, and others known and unknown, used a network of trusted associates; "girlfriends"; and Nygard Group employees. Many of the victims were initially invited to dinners or parties at NYGARD's residences, particularly in the Bahamas and in Marina del Rey, California, where NYGARD regularly hosted dinner parties and larger, so-called "Pamper Parties" for female guests. Many victims were initially induced, coerced, and forced to have sex with NYGARD through one or more of the following: false promises of modeling or fashion industry jobs; the supply of alcohol and/or drugs, including the drugging of drinks without the victim's knowledge; and physical force. Following sexual activity, NYGARD typically paid victims with cash that he accessed through the Nygard Group. In some instances, NYGARD intended these payments to secure a victim's silence. In other instances, NYGARD intended these

payments to facilitate future sexual activity with the victim induced through force, fraud, and coercion.

14. PETER NYGARD, the defendant, and others known and unknown, maintained ongoing personal and quasi-professional relationships with certain of NYGARD's victims, whom he referred to as "girlfriends," "assistants," or both. NYGARD required these "girlfriends" to travel and to stay with him regularly, including in the Southern District of New York; to engage in sexual activity at his direction (including with NYGARD, with each other, and with others); and to recruit new women and minor-aged girls for NYGARD to have sex with.

15. PETER NYGARD, the defendant, and others known and unknown, maintained control over these "girlfriends" for the purpose of inducing additional acts of commercial sex through a variety of means including force, fraud, and coercion. For example, NYGARD and his associates provided alcohol and illegal drugs, including cocaine and ecstasy, to "girlfriends" in advance of sexual activity and threatened or berated "girlfriends" if they did not agree to participate. NYGARD sometimes forcibly assaulted "girlfriends" who did not comply with NYGARD's sexual demands – or caused others to do so at his direction or with his approval. NYGARD dictated the daily activities of "girlfriends" and the details of their appearance, including how "girlfriends" could style their hair and what clothing he would permit them to wear.

"Girlfriends" were also under constant surveillance by NYGARD and his associates and were not permitted to leave premises without NYGARD's express permission.

16. PETER NYGARD, the defendant, and others known and unknown, paid for commercial sex using funds from the Nygard Group. Although victims were often first paid in cash on a transactional basis, once NYGARD elevated a particular victim to the status of "girlfriend," he typically paid her a monthly stipend or allowance rather than per sexual transaction, frequently by putting such "girlfriends" on the payroll of one of the entities within the Nygard Group, as "models," "assistants," or in other positions. Other victims were first employed by the Nygard Group for ostensibly legitimate positions, such as project manager or communications assistant. NYGARD also provided payments-in-kind to these victims (including plastic surgery, medical procedures, rent, and travel), as well as making additional promises of help with their careers. However, for these victims, NYGARD made clear that succumbing to his sexual demands was a condition of their continued employment and other benefits.

Nygard's Means of Recruitment

17. "Pamper Parties," dinners, and poker games:

a. PETER NYGARD, the defendant, and others known and unknown, recruited victims at "Pamper Parties" that NYGARD hosted at his properties in Marina del Rey and the Bahamas. Women

and girls were often invited to the parties by ComCor employees. They were also sometimes invited by "girlfriends" or "assistants" or by NYGARD's friends or business associates.

b. Nygard Group employees were responsible for: (i) taking photographs and obtaining the contact information of Pamper Party guests to ensure that NYGARD approved of the physical appearance of each guest and to create a record of approved guests for future parties, dinners, poker games, and general recruitment; (ii) uploading this information to a corporate server or document management system, or emailing it directly to NYGARD, for NYGARD's review; and (iii) ensuring that NYGARD had supplies like condoms, lubricant, and cash available.

c. NYGARD, and others known and unknown, also used dinner parties and poker games at NYGARD's Marina del Ray and Bahamas properties as a means of recruitment. Women and girls were invited through similar channels to those used for Pamper Parties, and underwent the same screening procedures as Pamper Party attendees.

d. At the Pamper Parties, dinners, and poker games, NYGARD frequently used a "girlfriend" or another person in his employ to approach a chosen woman or girl to indicate his interest in sexual activity. The "girlfriend" or employee facilitated a sexual encounter by, among other things, encouraging alcohol and recreational drug use and talking favorably of NYGARD

and the opportunities he may make available to the victim. NYGARD then engaged in sexual activity with the victim on the premises and paid her cash, usually between several hundred and several thousand dollars in U.S. currency, after the interaction. At times, unwilling participants, including minor girls, were drugged to force their compliance with NYGARD's sexual demands. At other times, victims had no advance warning of NYGARD's interest in sexual activity and were instead lured to a more secluded area of the property where NYGARD used physical force and/or psychological pressure to coerce sex.

18. Sex and Swingers Club Connections:

a. PETER NYGARD, the defendant, and others known and unknown, also regularly patronized sex and "swingers" clubs with one or more "girlfriends," including clubs in New York City, Miami, Los Angeles, and Winnipeg. While at the clubs, NYGARD directed and pressured "girlfriends" through manipulation, intimidation, degradation, threats and on occasion, force, to engage in sex with other men in order to facilitate NYGARD having sex with other women and for his own sexual gratification. At these clubs, NYGARD frequently forced his victims to engage in group sexual activity to which they had not consented.

b. NYGARD also engaged in sexual "swaps" with male friends and business associates, who would bring NYGARD a "date" for sex in exchange for access to one of NYGARD's

"girlfriends" for sex. "Girlfriends" were not consulted in advance that they would be traded for sex and NYGARD often pressured them to comply with such swaps at his direction through manipulation, intimidation, degradation, and threats.

19. "Girlfriend" Connections:

a. PETER NYGARD, the defendant, and others known and unknown, also relied on "girlfriends" and "assistants" to identify new potential victims and facilitate NYGARD's access to them. "Girlfriends" regularly contacted other women, including their personal friends, inviting them to travel with them or to visit one of NYGARD's residences. Some "girlfriends" also approached women and minor girls in public places like Times Square and Los Angeles shops and invited them back to NYGARD's residence or hotel room. NYGARD compensated "Girlfriends" and "assistants," for their role in securing new sexual partners for him.

Notice of Special Sentencing Factor

20. As part of his agreement to conduct and participate in the conduct of the affairs of the Nygard Enterprise through a pattern of racketeering activity, PETER NYGARD, the defendant, and others known and unknown, agreed that multiple acts indictable under Title 18, United States Code, Sections 1591(a), (b)(1), and (b)(2) would be committed, to wit, a conspirator would, in or affecting interstate commerce, recruit, entice, harbor, transport, provide, obtain, advertise, maintain, patronize, and solicit, by

any means, persons, and would benefit, financially and by receiving anything of value, from participation in a venture which has engaged in any such act, knowing and in reckless disregard of the fact that (1) means of force, threats of force, fraud, and coercion, and any combination of such means, would be used to cause the persons to engage in commercial sex acts, in violation of Title 18, United States Code, Section 1591(a) and (b)(1); and (2) such persons have not attained the age of 18 years and would be caused to engage in one or more commercial sex acts, in violation of Title 18, United States Code, Sections 1591(a) and (b)(2).

(Title 18, United States Code, Section 1962(d).)

COUNT TWO
(Conspiracy to Commit Sex Trafficking)

The Grand Jury further charges:

21. From in or about 1995, up to and including in or about 2020, in the Southern District of New York and elsewhere, PETER NYGARD, the defendant, and others known and unknown, willfully and knowingly, in and affecting interstate commerce, did combine, conspire, confederate and agree to recruit, entice, harbor, transport, provide, obtain, advertise, maintain, patronize, and solicit, by any means, persons, and to benefit, financially and by receiving anything of value, from participation in a venture which has engaged in any such act, knowing and in reckless disregard of the fact that (1) means of force, threats of

force, fraud, and coercion, and any combination of such means, would be used to cause the persons to engage in commercial sex acts, in violation of Title 18, United States Code, Section 1591(a) and (b)(1); and (2) some such persons have not attained the age of 18 years and would be caused to engage in one or more commercial sex acts, in violation of Title 18, United States Code, Sections 1591(a) and (b)(2), to wit, NYGARD, and others known and unknown, agreed to recruit, entice, harbor, transport, provide obtain, advertise, maintain, patronize, and solicit women and minor girls, including Minor Victim-1, Victim-2, and Victim-3, as alleged in Counts Three, Four, and Five respectively, and caused the women and minor girls, including Minor Victim-1, Victim-2, and Victim-3, to engage in commercial sex acts, knowing, and in reckless disregard of the fact that the women and minor girls were engaging in commercial sex acts as a result of force, threats of force, fraud and coercion, and knowing, and in reckless disregard of the fact that the minor girls had not attained the age of 18 years.

(Title 18, United States Code, Section 1594.)

COUNT THREE

(Sex Trafficking of a Minor and by Force, Fraud, or Coercion)

The Grand Jury further charges:

22. In or about 2012, in the Southern District of New York and elsewhere, PETER NYGARD, the defendant, knowingly, in and affecting interstate and foreign commerce, did recruit, entice,

harbor, transport, provide, obtain and maintain, by any means a person, and did benefit, financially and by receiving anything of value, from participation in a venture which has engaged in such acts, knowing and in reckless disregard of the fact that force, fraud, and coercion, as described in Title 18, United States Code, Section 1591(e)(2), and any such combination of such means, would be used to cause the person to engage in a commercial sex act, and that this person had not attained the age of 18 years and would be caused to engage in a commercial sex act, and aided and abetted the same, to wit, NYGARD recruited, enticed, transported, provided and maintained Minor Victim-1, and caused Minor Victim-1 to engage in commercial sex acts, knowing, and in reckless disregard of the fact that Minor Victim-1 was engaging in commercial sex acts as a result of force, fraud and coercion, and knowing, and in reckless disregard of the fact that Minor Victm-1 had not attained the age of 18 years.

(Title 18, United States Code,
Sections 1591(a), (b)(1), (b)(2) and (2).)

COUNT FOUR
(Sex Trafficking by Force, Fraud, or Coercion)

The Grand Jury further charges:

23. From at least in or about 2017, up to and including or about 2018, in the Southern District of New York and elsewhere, PETER NYGARD, the defendant, knowingly, in and affecting interstate and foreign commerce, did recruit, entice, harbor,

transport, provide, obtain, advertise, maintain, patronize, and solicit by any means a person, and did benefit, financially and by receiving anything of value, from participation in a venture which has engaged in such acts, knowing and in reckless disregard of the fact that force, fraud, and coercion, as described in Title 18, United States Code, Section 1591(e)(2), and any such combination of such means, would be used to cause the person to engage in a commercial sex act, and aided and abetted the same, to wit, NYGARD recruited, enticed, transported, provided and maintained Victim-2, and caused Victim-2 to engage in commercial sex acts, knowing, and in reckless disregard of the fact that Victim-2 was engaging in commercial sex acts as result of force, fraud and coercion.

(Title 18, United States Code,
Sections 1591(a), (b)(1), and (2).)

COUNT FIVE
(Sex Trafficking by Force, Fraud, or Coercion)

The Grand Jury further charges:

24. From at least in or about 2018, up to and including or about 2019, in the Southern District of New York and elsewhere, PETER NYGARD, the defendant, knowingly, in and affecting interstate and foreign commerce, did recruit, entice, harbor, transport, provide, obtain advertise, maintain, patronize, and solicit, by any means a person, and did benefit, financially and by receiving anything of value, from participation in a venture which has engaged in such acts, knowing and in reckless disregard

of the fact that force, fraud, and coercion, as described in Title 18, United States Code, Section 1591(e)(2), and any such combination of such means, would be used to cause the person to engage in a commercial sex act, and aided and abetted the same, to wit, NYGARD recruited, enticed, transported, provided and maintained Victim-3, and caused Victim-3 to engage in commercial sex acts, knowing, and in reckless disregard of the fact that Victim-3 was engaging in commercial sex acts as result of force, fraud and coercion.

(Title 18, United States Code,
Sections 1591(a), (b)(1), and (2).)

COUNT SIX
(Transportation of a Minor for Purpose of Prostitution)

The Grand Jury further charges:

25. In or about 2012, in the Southern District of New York and elsewhere, PETER NYGARD, the defendant, and others known and unknown, knowingly transported and attempted to transport a minor who was less than 18 years old in interstate and foreign commerce, with intent that the minor engage in prostitution, and aided and abetted the same, to wit, NYGARD, and others known and unknown, arranged to have Minor Victim-1 travel across state and international lines, including to New York, for the purpose of engaging in prostitution.

(Title 18, United States Code, Sections 2423(a) and 2.)

COUNT SEVEN
(Transportation for Purpose of Prostitution)

The Grand Jury further charges:

26. From in or about 2017 up to and including in or about 2018, in the Southern District of New York and elsewhere, PETER NYGARD, the defendant, and others known and unknown, knowingly transported and attempted to transport persons in interstate and foreign commerce, with intent that the person engage in prostitution, and aided and abetted the same, to wit, NYGARD, and others known and unknown, arranged to have Victim-2 travel across state and international lines, including to New York, for the purpose of engaging in prostitution.

(Title 18, United States Code, Sections 2421 and 2.)

COUNT EIGHT
(Transportation for Purpose of Prostitution)

The Grand Jury further charges:

27. From in or about 2018 up to and including in or about 2019, in the Southern District of New York and elsewhere, PETER NYGARD, the defendant, and others known and unknown, knowingly transported and attempted to transport persons in interstate and foreign commerce, with intent that the person engage in prostitution, and aided and abetted the same, to wit, NYGARD, and others known and unknown, arranged to have Victim-3 travel across state and international lines, including to New York, for the purpose of engaging in prostitution.

(Title 18, United States Code, Sections 2421 and 2.)

COUNT NINE
(Transportation for Purpose of Prostitution and Illegal Sexual Activity)

The Grand Jury further charges:

28. In or about 2010, in the Southern District of New York and elsewhere, PETER NYGARD, the defendant, and others known and unknown, knowingly transported a person in interstate and foreign commerce, with intent that the person engage in prostitution, and with intent to engage in sexual activity for which a person can be charged with a criminal offense, and attempted to do the same, to wit, NYGARD, and others known and unknown, arranged to have Victim-4 travel across state lines, including to New York, for the purpose of engaging in prostitution, and with the intent that NYGARD would engage in one or more sex acts with Vicitm-4, in violation of New York Penal Law Sections 130.52 and 130.55.

(Title 18, United States Code, Sections 2421 and 2.)

FORFEITURE ALLEGATION AS TO COUNT ONE

29. As a result of committing the offense alleged in Count One of this Indictment, PETER NYGARD, the defendant, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 1963, any and all interests the defendant acquired or maintained in violation of Title 18, United States Code, Section

1962; any and all interests in, securities of, claims against, and property or contractual rights of any kind affording a source of influence over, the enterprise named and described herein which the defendants established, operated, controlled, conducted, and participated in the conduct of, in violation of Title 18, United States Code, Section 1962; and any and all property constituting and derived from proceeds obtained, directly and indirectly, from racketeering activity in violation of Title 18, United States Code, Section 1962, the offense alleged in Count One of this Indictment, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of the offense alleged in Count One.

FORFEITURE ALLEGATION AS TO COUNTS TWO THROUGH FIVE

30. As a result of committing the sex trafficking offenses, in violation of Title 18, United States Code, Sections 1591(a), (b)(1), (b)(2), 1594 and 2, alleged in Counts Two through Five of this Indictment, PETER NYGARD, the defendant, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 1594: (1) any property, real and personal, that was involved in, used or intended to be used to commit or to facilitate the commission of the offenses, and any property traceable to such property; and (2) any property, real and personal, constituting or

derived from, any proceeds obtained, directly or indirectly, as a result of the offenses, or any property traceable to such property.

Substitute Assets Provision

31. If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

a. cannot be located upon the exercise of due diligence;

b. has been transferred or sold to, or deposited with, a third person;

c. has been placed beyond the jurisdiction of the Court;

d. has been substantially diminished in value; or

e. has been commingled with other property which cannot be subdivided without difficulty,

it is the intent of the United States, pursuant to Title 18, United States Code, Section 1963(m) and Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendants up to the value of the above forfeitable property.

(Title 18, United States Code, Sections 1594 and 1963;
Title 21, United States Codes, Section 853; and
Title 28, United States Code, Section 2461.)

[redacted]
FOREPERSON

Audrey Strauss
AUDREY STRAUSS
Acting United States Attorney

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- v. -

PETER NYGARD,

Defendant.

SEALED INDICTMENT

20 Cr. ___ (__)

(18 U.S.C. §§ 1591, 1594, 1962, 2421, 2423, and 2.)

AUDREY STRAUSS
Acting United States Attorney.

A TRUE BILL

[redacted]

Foreperson.

EXHIBIT 2

Court File No.
CR 20-01-38356

COURT OF QUEEN'S BENCH
(WINNIPEG CENTRE)

IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION 13 OF THE *EXTRADITION ACT* FOR A WARRANT FOR THE PROVISIONAL ARREST OF PETER NYGARD

B E T W E E N:

THE ATTORNEY GENERAL OF CANADA
ON BEHALF OF THE UNITED STATES OF AMERICA

Applicant

- and -

PETER NYGARD

Respondent/Person Sought

AFFIDAVIT OF STEFANE NICOLAS

ATTORNEY GENERAL OF CANADA
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Counsel for the Attorney General of Canada

FILED
QUEEN'S BENCH
DEC 17 2020
LAW COURTS
WINNIPEG

Court File No.

COURT OF QUEEN'S BENCH
(WINNIPEG CENTRE)

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B E T W E E N:

THE ATTORNEY GENERAL OF CANADA
ON BEHALF OF THE UNITED STATES OF AMERICA

Applicant

- and -

PETER NYGARD

Respondent/Person Sought

AFFIDAVIT OF STEFANE NICOLAS

I, Stefane Nicolas, Peace Officer, of the City of Winnipeg, Manitoba, AFFIRM AND SAY AS FOLLOWS:

I. Overview

1. I am a Sergeant with the Royal Canadian Mounted Police currently assigned to the Federal Serious and Organized Crime Unit in Winnipeg, Manitoba. As such, I have personal knowledge of the matters deposed to in

this Affidavit, except where stated to be based on information and belief, in which case I believe them to be true. In particular, I have received the information contained in this affidavit from information forwarded by authorities in the United States in support of their extradition request; from other law enforcement officers; and from the Department of Justice Canada, which information I believe to be true.

2. I am aware that the Minister of Justice has issued an Authorization to Apply for a Provisional Arrest Warrant with respect to Peter Nygard ("NYGARD"), dated December 9, 2020. Attached as Exhibits A to E respectively are copies of materials that I have received from the Department of Justice Canada, and that I have reviewed:

(a) a copy of the Authorization to Apply for a Provisional Arrest Warrant Issued on behalf of the Minister of Justice on December 9, 2020 (**Exhibit "A"**);

(b) a copy of an arrest warrant issued by the United States District Court (Southern District of New York) on November 23, 2020, (**Exhibit "B"**);

(c) a copy of an undated colour photograph of NYGARD provided by authorities in the United States of America ("U.S.") (**Exhibit "C"**);

(d) the Request for Provisional Arrest to Canada related to NYGARD provided by the U.S. (**Exhibit "D"**);

(e) the Summary of Facts and Statement of Urgency related to NYGARD provided by the U.S. (**Exhibit "E"**).

3. Pursuant to the Request for Provisional Arrest (the "Request") made by the Government of the United States of America to the Government of Canada, I affirm this Affidavit in support of an application for a warrant for the provisional arrest of NYGARD pursuant to the provisions of the *Extradition Act* and the *Treaty of Extradition between the Government of Canada and of the United States of America*.

4. The Government of the United States of America seeks the provisional arrest of NYGARD for prosecution for the offences of racketeering conspiracy, sex trafficking conspiracy, sex trafficking, transportation of a minor for prostitution, and transportation for prostitution, contrary to Title 18 of the United States Code, sections 1962(d), 1594, 1591, 2423, and 2421.

5. Pursuant to section 12 of the *Extradition Act*, the Minister of Justice has authorized the Attorney General of Canada to apply for a warrant for the provisional arrest of NYGARD (**Exhibit "A"** to this affidavit).

II. Facts of the Case

U.S. Investigation

6. Based on my reading of the particulars set out in the Request (**Exhibit "D"**), I believe the following to be true:

(a) The particulars of the person sought to be provisionally arrested are as follows:

Name:	Peter Nygard
Date of Birth:	July 24, 1941
Place of Birth:	Finland
Citizenship:	Canada, Finland
Height:	177 cm
Weight:	78 kg
Eye Colour:	Blue
Hair Colour:	Grey
Ethnicity/Race:	White
Address:	750 John Bruce Road East Winnipeg, MB R3X 1Y2

(b) On November 23, 2020 an arrest warrant was issued by a Judge of the United States District Court for the Southern District of New York (**Exhibit "B"**) for the arrest of NYGARD.

7. I have reviewed the Summary of Facts and Statement of Urgency (**Exhibit "E"**) and believe the facts summarized therein to be true. In particular, I believe the following facts with respect to the U.S. investigation into NYGARD and the offences under investigation:

Statement of Facts

(a) NYGARD is the founder of an international clothing design, manufacturing, and supply business headquartered in Winnipeg, Canada, with multiple product lines and brands, many of which bear NYGARD's name;

(b) U.S. authorities have been conducting a long-term investigation into NYGARD and co-conspirators, establishing a decades-long pattern of criminal activity in the United States, the Bahamas, and elsewhere. The evidence gathered in the United States includes interviews of more than two dozen victims. The investigation shows that NYGARD's criminal conduct has affected hundreds of victims. The harm to his victims has included not only economic and psychological harm but also numerous instances of non-consensual

sex, including non-consensual group sex, attempted forcible rapes, and drugging of victims. While some victims have suffered only a single sexual assault by NYGARD, others have been subjected to persistent manipulation and sexual abuse;

(c) The investigation has determined that from about 1995 to the present NYGARD and multiple co-conspirators have used force, fraud, and coercion to recruit and entice female victims, both adults and girls ages 14 to 17, to engage in paid sex with NYGARD, and, on occasion, with NYGARD's business and personal associates. NYGARD and his co-conspirators also transported adults and girls ages 14 to 17 across state and international lines for purposes of paid sex and, in some instances, sexual assault;

(d) NYGARD regularly used his corporate entities and resources to facilitate the commission of these offences, including by diverting corporate funds and using corporate employees for his own criminal purposes;

(e) NYGARD's victims generally described a relationship with NYGARD in which they were paid for sex that was in turn induced

through force, fraud, and coercion. Many of the victims were referred to by NYGARD as "girlfriends", and some also functioned as quasi-personal assistants to NYGARD.

(f) Multiple victims stated that they were initially induced into close contact with NYGARD in response to false promises that he made to them. For example, NYGARD made promises of modeling or fashion industry jobs that did not exist, or of assistance with their careers in other ways, and then sexually propositioned them as a condition of his assistance;

(g) Many of the victims also described being repeatedly coerced into submitting to sex with NYGARD. The coercive measures NYGARD used included threats of economic harm (*e.g.*, termination of employment, career, and financial support), actual economic harm, false promises of opportunities for advancement (in exchange for sexual compliance), surveillance of the victims' movements, physical isolation, verbal abuse, instances of forced non-consensual sex, and other techniques of psychological control;

(g) For example, victims have described travelling with NYGARD while being constantly surveilled and having little to no control over their ability to leave premises without NYGARD's permission, such as at his Bahamas estate. In addition, international travel arrangements were managed exclusively by corporate employees at NYGARD's direction, making it difficult, and in some cases impossible, for victims to return home without NYGARD's permission and financial assistance;

(h) In addition, multiple victims were forced to engage in sex acts, whether by being drugged or forcibly assaulted;

(i) Many victims described that in addition to demanding access to his "girlfriends" and "assistants" for sex, NYGARD regularly required access to new sexual partners, including both adults and girls ages 14 to 17. NYGARD and his co-conspirators used various recruitment tools to identify new potential victims, including (1) dinners, poker games, and large parties at his properties called "Pamper Parties"; (2) long-term relationships with co-conspirators, and (3) the personal recruitment of the friends and acquaintances of his "girlfriends" and "assistants."

(j) NYGARD also used victims already under his control as a commodity to trade for other sexual partners. NYGARD would regularly patronize sex and swing clubs and, at these clubs, repeatedly forced and coerced "girlfriends" and "assistants" to engage in group sexual activity to which they did not consent;

(k) Specific examples of victims include Minor Victim-1, Victim-2, Victim-3, Victim-4, Victim-5, and Victim-6, who described being repeatedly coerced into submitting to sex with NYGARD.

(l) Minor Victim-1 was initially induced onto a NYGARD property by a NYGARD "girlfriend". NYGARD subsequently isolated Minor Victim-1 in his bedroom and had sex with her, knowing that she was under the age of 18. Minor Victim-1 did not feel that she could leave the room or say no;

(l) Minor Victim-1 subsequently travelled with NYGARD as a "girlfriend," being paid in cash to continue a sexual relationship. Without her permission, or even advance warning, NYGARD brought Minor Victim-1 to a swing club in New York, where he directed her to have sex with other men so that NYGARD could have sex with those

men's female partners. Minor Victim-1, who had never travelled internationally before and was dependent on NYGARD for her travel arrangements and accommodations, felt compelled to submit to his demands;

(m) Victim-2, Victim-3, and Victim-6 were among those who functioned as quasi-personal assistants to NYGARD. Each was initially induced into close contact with NYGARD in response to false promises that he made to them;

(n) Victim-2 and Victim-6 have described instances at sex clubs where NYGARD attempted to, or directed other men to, sexually assault them without their consent. NYGARD directed other men to ejaculate on Victim-2 against her will at a club in the United States. NYGARD also attempted, with another man, to force Victim-6's legs apart to have sex after she refused, also at a club in the United States;

(o) Victim-3 described an instance in 2018 when she was drugged and gang-raped by NYGARD and five other men while travelling internationally with NYGARD. She recalled few details of the assault,

but NYGARD described it to her afterwards, angered that she had "ruined" the night by attempting to fight the men off and yelling;

(p) Victim-4 was transported in a Company vehicle from New Jersey to New York, where NYGARD attempted to force Victim-4 to engage in sexual conduct, including by digitally penetrating her;

(q) Victim-5 also described that after NYGARD made her a "girlfriend," he directed her to recruit new women and girls for sex with him, including girls under the age of 18. She and other "girlfriends" often invited women and girls to NYGARD's properties or the hotels where NYGARD was staying, and then offered them alcoholic drinks and recreational drugs in advance of meeting NYGARD, in hopes that it would facilitate sexual contact. Victim-5 and others described that for the duration of their years-long interactions with NYGARD, he required his so-called "girlfriends" to find new women and girls for him to have sex with on a near-daily basis.

(r) Additional evidence of NYGARD's recruitment of women and girls for sex includes:

(i) Email correspondence with corporate employees about Pamper Parties and other recruitment events, directing those employees as to physical requirements for female invitees and the implementation of "ratings" for prospective and past party guests;

(ii) Employee emails about preparations for the events, which included ensuring that there was sufficient sexual lubricant and cash on hand for NYGARD;

(iii) Email and phone correspondence with co-conspirators about women they referred to NYGARD for sex; travel arrangements for the women to see NYGARD; and payments for their services; and,

(iv) Email and cellphone exchanges with "girlfriends," including Minor Victim-1, about prospective sexual partners, as well as communications with Company employees arranging travel for those individuals;

(s) Evidence also shows that NYGARD exploited his companies to carry out and conceal his criminal conduct in various ways, including:

(i) Using corporate staff and resources to organize, execute, and pay for victim recruitment events at his properties;

(ii) Using company funds to pay victims and to cover various related expenses, including plastic surgery, abortions and medical treatments;

(iii) arranging travel for NYGARD and victims;

(iv) providing property management and security services at NYGARD's various properties, including by restricting victims' ability to leave the properties without NYGARD's express approval;

(v) Transporting victims and NYGARD to sex and swing clubs; and,

(vi) Using corporate employees and funds to quash negative publicity related to allegations of sexual assault and sex trafficking and to engage in illegal witness tampering.

(t) This range of conduct by NYGARD's companies and corporate staff includes:

(i) Maintaining records of NYGARD's Pamper Parties, including guest lists with notes about particular female guests, their body type and/or the body type of their friends, whether or

not they had gone up to NYGARD's bedroom, and what time they left the premises;

(ii) Organizing, supplying, and executing these events, including screening and ranking attendees and stocking the property with sexual lubricant and alcohol, among other things;

(iii) Maintaining travel records, including manifests and passport copies, related to the company-funded travel of adult victims, as well as victims under the age of 18.

(iv) Receipt of NYGARD's email, via "girlfriends" or corporate employees, documenting his authorization of payments to victims;

(v) Communicating with NYGARD's company email about security at his properties, including email correspondence with staff in California about women attempting to leave the property without permission and being stopped by staff members;

(vi) Driving NYGARD and victims to sex and swing clubs; and,

(vii) Assisting in restricting victims' ability to leave NYGARD's properties, including by utilizing physical barriers, lock pads, and security cameras;

Identification

(u) NYGARD is a Canadian citizen with a date of birth of July 24, 1941. NYGARD's Canadian passport number is AJ609577. United States Customs and Border Protection records show that NYGARD travelled under this passport as recently as February 24, 2020, from St. Paul International Airport in Minnesota to Winnipeg International Airport in Canada. The photograph attached as **Exhibit "C"** has been identified as depicting NYGARD by numerous victims, including Victim-2, Victim-3, Victim-5, and Victim-6.

Statement of Urgency

Danger to community

(v) As described above, NYGARD has engaged in decades of sex trafficking and related offenses facilitated by those in his employ. In addition to conduct that took place in the United States, over the last 25 years and with the assistance of corporate employees, NYGARD has also enticed women to travel to Canada for this purpose and victimized them at properties in Winnipeg, Toronto, and Falcon Lake. Some of the employees and confidantes who have facilitated such conduct continue to work for and to assist NYGARD;

(w) Some of NYGARD's victims have been subjected to persistent manipulation and sexual abuse. These longer-term victims are required to be constantly available to NYGARD and are not permitted to leave his property without his permission;

(x) As recently as February 2020, NYGARD travelled into Canada with a female United States citizen, ostensibly working as his personal assistant ("Female-1"). Female-1 was with NYGARD until approximately October 2020, when she returned to the United States;

(y) Upon her return to the United States, the FBI executed a search warrant for Female-1's cellphone. Communications on Female-1's cellphone indicate that, while in Canada, she was required to reside with NYGARD; that she was worked by NYGARD to the point of exhaustion; that NYGARD closely monitored her movements; and that NYGARD explicitly instructed her that she was not permitted to leave the premises without his permission;

(z) In addition, in the days leading up to Female-1's departure, she communicated with Victim-6, telling her, in sum and substance, that NYGARD had "been a monster" and that she was leaving;

Obstruction of justice/witness tampering

(aa) During the past several decades, NYGARD has also repeatedly engaged in efforts to obstruct justice and tamper with potential witnesses against him. These efforts have included paying witnesses to provide false information, monitoring contact between victims and U.S. law enforcement, and providing false information to witnesses, including those NYGARD knew had been contacted by U.S. law enforcement; Examples include:

(i) In or about 2016, after learning about a federal criminal investigation, NYGARD directed Victim-6 to provide testimony establishing that Minor Victim-1 was an adult under U.S. law, that when she travelled with NYGARD. Victim-6, who believed at the time that Minor Victim-1 was 18 or older, agreed, and offered sworn statements at what she understood to be a civil deposition. After NYGARD subsequently rewarded her with a $2,000 cash bonus, she later learned that Minor Victim-1 was under age 18;

(ii) Messages recovered from NYGARD's phone demonstrate that in or about December of 2019, a witness who had been lawfully served by the FBI with a subpoena ("Female-2") sent NYGARD a photograph of the FBI agent's business card. About 20 days later, NYGARD sent Female-2 another message falsely telling her that the agent was a "fake.";

(iii) Another longtime "girlfriend" ("Female-3") advised Victim-3 that in the summer of 2020, after the U.S. investigation had been revealed, NYGARD contacted Female-3 from another person's phone to convey, in substance, that if she were not on his "side" then she was "going down.";

Flight risk

(bb) NYGARD is aware of the U.S. investigation, as he was intercepted on February 24, 2020, in the St. Paul International Airport and served with a search warrant for electronic devices. NYGARD subsequently boarded a flight to Canada;

(cc) Soon afterward, a major retailer dropped NYGARD's clothing brand and several of NYGARD's corporate entities were put into bankruptcy proceedings in Canada and the United States. While these proceedings have temporarily slowed NYGARD's ability to liquidate certain assets, he has maintained control over significant real property and bank accounts held by non-bankruptcy entities;

(dd) Public real estate records, as well as filings in the Canadian bankruptcy proceeding, demonstrate that NYGARD has recently been liquidating some of these assets, including some in the United States,

and using Company employees to extract cash for his use. Moreover, the bankruptcy receivership is expected to end in or around January 2021, and NYGARD will then have easier access to additional corporate assets;

(ee) Communications on Female-1's phone indicate that at least as recently as April 2020, NYGARD was considering travel to Malta or Bermuda, and that in or about June 2020, he was considering the logistics of travelling under an alias. Female-1's research on NYGARD's behalf is consistent with evidence that NYGARD does not undertake travel and other logistical arrangements personally, but delegates them to his staff, indicating that, in Female-1's absence, NYGARD would be inclined to turn to other employees for administrative tasks that could include arrangements to flee;

(ff) In addition, communications between U.S. authorities and NYGARD's attorneys have made it clear that NYGARD is aware that U.S. authorities seized Female-1's phone in October 2020, a clear indication to him that the investigation is ongoing;

(gg) NYGARD also has a history of failure to appear in legal proceedings. As publicly reported, a warrant was issued for his arrest in the Bahamas after he failed to appear for a required court appearance related to ongoing civil litigation, and he was sentenced to 90 days in prison and a fine after a Bahamian court found that he violated a court order.[1] Emails and phone records reflect NYGARD's awareness of these legal proceedings; nonetheless, he has not returned to the Bahamas as directed. Moreover, NYGARD directed Victim-6 to help him feign an inability to travel because of medical problems, directing her, for instance, to photograph him at a hospital.

RCMP investigation in support of Request

8. In addition, in support of the Request, RCMP undertook a series of open-source searches and made other queries of publicly available databases with respect to NYGARD. I have reviewed this material, as well as media articles referred to me by the Department of Justice Canada, and learned the following:

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[1] *See generally* https://globalnews.ca/news/4901221/arrest-warrant-issued-after-peter-nygard-fails-to-appear-in-bahamas-court/ and https://www.cbc.ca/news/canada/manitoba/peter-nygard-sentenced-jail-bahamas-1.5365500.

(a) From media articles I reviewed, it has been reported that:

(i) NYGARD is extremely wealthy, and was previously listed as one of 100 wealthiest people in Canada. His net worth has been previously estimated to exceed $700 million;[2]

(ii) NYGARD owns or a luxury estate in the Bahamas, which has been the subject of an ongoing legal dispute. Media articles report that NYGARD has ignored a 2013 issued by the Bahamian Courts; has been convicted of contempt of court on three occasions; failed to appear in court multiple times for sentencing in relation to these convictions; and ultimately had an arrest warrant issue for him in January, 2019.[3] The article also indicates that NYGARD did not pay over $3,000,000 in court costs until after the Court seized his estate;

(b) I reviewed an affidavit affirmed by NYGARD on June 25, 2020 in his corporate bankruptcy proceedings in the Manitoba Court of Queen's Bench File No. CI 20-01-26627.[4] NYGARD states that he was a permanent resident of the Bahamas for over 40 years. He also

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[2] See, for example, https://www.canadianbusiness.com/lists-and-rankings/richest-people/five-people-who-fell-off-the-list-of-canadas-richest-people-this-year/

[3] See: https://nationalpost.com/news/world/court-in-bahamas-issues-arrest-warrant-for-canadian-fashion-mogul-peter-nygard

[4] The pleadings in this proceeding are available on the Receiver's website at: https://www.richter.ca/insolvencycase/nygard-group/

states that he has been a permanent resident of Canada in excess of one and one-half years;

(c) From the same proceeding, I reviewed an affidavit affirmed by a Greg Fenske on June 24, 2020. Fenske states that he was a Director of Systems for the Nygard group of companies. He also states that NYGARD has been a permanent resident of Canada in excess of one and one-half years;

(d) I also reviewed reports filed by the Receiver, Richter Advisory Group Inc. in that proceeding. A third supplementary report dated June 29, 2020 identifies:

(i) a Steve Mager and a Jose Vasquez as being former Nygard employees who attended NYGARD's former apartment to retrieve his personal effects, and;

(ii) that certain Nygard company vehicles had become registered in the names of certain Nygard Group executives or employees, including a Ford F150 XLT registered to Greg Fenske; a Dodge Ram 1500 Rebel Crew registered to Steve Mager; and a AM General Hummer H2 registered to Jose Vasquez;

(e) I also reviewed a supplementary first report of the Receiver dated April 27, 2020, which noted an unusual amount of Nygard company computer file deletions that occurred on or about March 18, 2020, being the date that the Receiver was appointed. The report also notes that this occurred after a United States District Court Grand Jury subpoena was issued to Nygard Inc. on February 25, 2020, and after the Nygard Group's general counsel issued a legal hold notice to the Nygard Group on February 26, 2020. The report identifies one of the users involved in the deletion activity as "Nygard.com\GregFenskeGGF5140";

(f) I reviewed the Manitoba Land Titles Registry Status of Title for 750 John Bruce Road East in Winnipeg, the address for NYGARD provided in the Request. The Status of Title described the registered owner as 10059103 Manitoba Inc.; and,

(g) I reviewed the Manitoba Companies Office registration for 10059103 Manitoba Inc., which listed its sole director as Gregory Fenske of 369 River Road, Winnipeg, Manitoba.

9. As a result of the Request, the RCMP initiated surveillance of the residence at 750 John Bruce Road East ("Residence"), beginning on December 10, 2020. I participated in this surveillance, and have received regular updates from the surveillance teams involved, which now include teams from the Winnipeg Police Service in addition to RCMP. I have made the following observations, or I have been informed by these teams and believe they made the following observations:

(a) Four vehicles were observed attending and leaving the Residence on December 10. These included a Hummer H2, Manitoba plate KLT650 registered to a Jose Vasquez, and a Dodge Ram, Manitoba plate BB7922 registered to a Steven Mager;

(b) On the evening of December 10, a RCMP member observed the Residence's garage door open as a vehicle was leaving. The member observed large studio quality photographs of models in the garage, including one that appeared to be a photo of NYGARD. The member also observed a female of southeast Asian heritage, approximately in her mid-50's, leaving the garage in a Honda Odyssey and putting out garbage;

(c) This female, or the Honda Odyssey, was also observed attending at the Residence on December 12, 13, and possibly December 11, at times with other vehicles;

(d) On the afternoon of December 11, a female with grey/blonde hair walked from the Residence to check if the garbage cans on the Residence's driveway were emptied, and returned to the Residence. A female was also observed on the 2nd floor of the Residence at 9:40 p.m. that evening;

(e) On December 11, four vehicles were also observed attending and departing the Residence, including the Hummer H2 and Dodge Ram described above, as well as a GMC Yukon, Manitoba plate KLE976 registered to a Michael Charles Maxwell Reeve of 369 River Rd, Winnipeg;

(f) On December 13, at 6:18 p.m., RCMP Cst. Stephane Theoret observed NYGARD looking out a basement window of the Residence. Cst. Theoret described the individual as a male, wearing a blue shirt and having white shoulder length hair. Cst. Theoret confirmed the

identity of NYGARD by comparison to the photo attached at **Exhibit "C"**.

(g) Subsequently, at 8:17 p.m. on December 13, RCMP Sgt. Lance Goldau observed NYGARD through a basement window walking in the Residence and turning to face toward the street. Sgt. Goldau described the individual he observed "as his photo", and wearing a blue open collar shirt, with a tall forehead and long white hair;

(h) Since the time of these sightings of NYGARD, RCMP have kept the Residence under continuous observation, with some assistance from the Winnipeg Police Service. I am advised by these surveillance teams and believe that, as of the execution of this affidavit, NYGARD has not been observed leaving the Residence in any of the vehicles subsequently observed there. He has also not been observed leaving the Residence by other means.

III. Grounds for Provisional Arrest Warrant

10. I am advised by counsel at the Department of Justice Canada that the requirements for issuing a provisional arrest warrant are set out in section 13

of the *Extradition Act*, which requires an applicant to establish reasonable grounds to believe that:

> (a) it is necessary in the public interest to arrest the person, including the need to prevent the person from escaping or committing an offence;
>
> (b) the person sought is ordinarily resident in Canada, is in Canada, or is on the way to Canada; and,
>
> (c) a warrant for the arrest, or an order of a similar nature, has been issued for the person sought, or the person has been convicted.

A. It is necessary in the public interest to arrest NYGARD

11. I believe it is in the public interest to arrest NYGARD at this time for the following reasons:

> (a) As stated in the Summary of Facts and Statement of Urgency, NYGARD has demonstrated predatory behaviour over a period of decades, showing he presents a persistent danger to the community;

(b) As indicated in the Statement of Urgency, I believe that as recently as October 2020, NYGARD has exercised psychological or physical control over Female-1, in a manner consistent with his pattern of control or coercion of victims. On this basis, I believe that NYGARD may have been continuing to commit the offences described as recently as October 2020, and may continue to do so;

(c) In respect of NYGARD's ability to continue to commit offences, I would advise this Court that I have also received information from another agency suggesting NYGARD is presently in poor health. The information received is not specific, but indicates NYGARD takes a lot of medications, is an "old man" who isn't well, and can barely lift his arms above his head. Given this limited description, I do not know if NYGARD's health would prevent him from committing further offences, given the nature and range of offences described;

(d) I believe NYGARD has demonstrated an ongoing intention to obstruct or defeat criminal investigations by the means described in the Statement of Urgency, including by interfering with or coercing witnesses;

(e) I also believe that NYGARD continues to have corporate personnel available to him to assist in obstructing criminal investigations, as is suggested by the deletion of Nygard corporate data that was discovered by the Receiver;

(f) For the reasons stated in the Statement of Urgency, I believe NYGARD presents a serious flight risk. NYGARD is aware of the U.S. investigation. NYGARD continues to possess substantial funds, notwithstanding his corporations' bankruptcies. NYGARD also has staff or "assistants" available to him to assist in making arrangements to flee, including, for example, by investigating travelling under an alibi;

(g) I believe NYGARD also poses a substantial risk of flight or non-attendance in court based upon my own review of media articles, affidavits, and the Statement of Urgency. Based upon my review of these materials, I believe that NYGARD was a Bahamian resident for a significant period and owned a luxury property there, but left the country at the approximate time an arrest warrant issued for him. I believe that NYGARD has avoided returning to the Bahamas in order to avoid his arrest and serving the custodial sentence imposed there;

(h) However, I am advised by counsel at the Department of Justice Canada that, according to a published judgment of the Bahamian Court of Appeal,[5] NYGARD has appealed his contempt sentence and, received a stay of execution the custodial sentence pending that appeal, having paid the fine component. I am also advised from that judgment that NYGARD is alleged, as of December 2019, to have multiple bench warrants that have issued for him in the Bahamas;

(i) I am also aware, via the media articles I have reviewed, that NYGARD has alleged he missed the court date for which the January 2019 warrant issued due to illness. I have taken that into consideration, along with the U.S. information that he was feigning an inability to travel due to a medical condition;

(j) Based upon the totality of the materials I have reviewed, though, I believe that NYGARD has demonstrated a pattern of non-attendance in court, and disregard for court orders, that indicate a likelihood of continued non-attendance or flight;

[5] https://www.courtofappeal.org.bs/download/054086100.pdf

B. NYGARD is in Canada

12. I believe NYGARD is ordinarily resident in Canada, based upon his citizenship; travel information provided by the U.S.; and his affidavit filed in the Nygard companies' bankruptcy proceeding. I believe he is presently in Canada based upon the surveillance observations of RCMP members on December 12, 2020 and subsequently. I believe he is residing at the Residence at 750 John Bruce Road East in Winnipeg, based upon the nature of its ownership; the identities of the visitors to the Residence; and the surveillance observations described above.

C. A warrant for arrest has been issued

13. As noted above, a warrant for NYGARD's arrest was issued by the United States District Court for the Southern District of New York, and is attached at **Exhibit "B"**.

Authorization to enter a dwelling house

14. Based upon the surveillance observations of NYGARD described above, and the continuous surveillance of the Residence after that time, I have reasonable grounds to believe that NYGARD is present in the dwelling

house at 750 John Bruce Road East, and request authorization to enter the Residence to execute the warrant requested.

15. I affirm this affidavit in support of an application by the Attorney General of Canada for a warrant for the provisional arrest of PETER NYGARD.

AFFIRMED before me at Winnipeg, Manitoba, this 14th day of December, 2020.

A Barrister and Solicitor entitled to practice in and for the Province of Manitoba

STEFANE NICOLAS

This is Exhibit "A" referred to in the
Affidavit of Stefane Nicolas
affirmed before me this 14th
day of December, 2020

A Barrister and Solicitor
in and for the Province of Manitoba

Form 1
Section 12 - Authority to apply for a provisional arrest warrant

TO: The Attorney General of Canada

In the matter of an extradition request pursuant to the provisions of the *Extradition Act*, S.C. 1999, c.18

COURT OF QUEEN'S BENCH OF MANITOBA

BETWEEN:

THE ATTORNEY GENERAL OF CANADA
(on behalf of the United States of America)

- and -

PETER NYGARD

AUTHORIZATION TO APPLY
FOR A PROVISIONAL ARREST WARRANT
(Section 12 *Extradition Act*)

The United States of America has requested that Canada seek the provisional arrest of Peter Nygard.

The Attorney General of Canada is authorized to apply for a provisional arrest warrant.

DATED at Gatineau, Quebec, on the 9th day of December, 2020.

Marisa Ferraiuolo, Counsel
International Assistance Group
for the Minister of Justice of Canada

This is Exhibit "B" referred to in the
Affidavit of Stefane Nicolas
affirmed before me this 14th
day of December, 2020

A Barrister and Solicitor
in and for the Province of Manitoba

Mod AO 442 (09/13) Arrest Warrant AUSA Name & Telno:

UNITED STATES DISTRICT COURT

for the

Southern District of New York

United States of America
v.
PETER NYGARD

Case No. 20 Cr. 624

Defendant

ARREST WARRANT

To: Any authorized law enforcement officer

YOU ARE COMMANDED to arrest and bring before a United States magistrate judge without unnecessary delay

(name of person to be arrested) PETER NYGARD,

who is accused of an offense or violation based on the following document filed with the court:

☑ Indictment ☐ Superseding Indictment ☐ Information ☐ Superseding Information ☐ Complaint

☐ Probation Violation Petition ☐ Supervised Release Violation Petition ☐ Violation Notice ☐ Order of the Court

This offense is briefly described as follows:

Racketeering conspiracy (18 USC 1962(d)); sex trafficking conspiracy (18 USC 1594); sex trafficking (18 USC 1591); transportation of a minor for prostitution (18 USC 2423); transportation for prostitution (18 USC 2421)

Date: 11/23/2020

Issuing officer's signature

City and state: White Plains, NY

Paul E Davison USMJ
Printed name and title

Return

This warrant was received on *(date)* _____, and the person was arrested on *(date)* _____

at *(city and state)* _____.

Date: _____

Arresting officer's signature

Printed name and title

This is Exhibit "C" referred to in the
Affidavit of Stefane Nicolas
affirmed before me this 14th
day of December, 2020

A Barrister and Solicitor
in and for the Province of Manitoba

PROVISIONAL ARREST REQUEST FOR PETER NYGARD

Exhibit A

This is Exhibit "D" referred to in the
Affidavit of Stefane Nicolas
affirmed before me this 14th
day of December, 2020

A Barrister and Solicitor
in and for the Province of Manitoba

REQUEST FOR PROVISIONAL ARREST TO CANADA

RETURN COMPLETED FORM TO:

John Riesenberg
Associate Director
Office of International Affairs
Criminal Division
U.S. Department of Justice

Phone: (202) 514-0000
Fax: (202) 514-0080

Jean Aylward
Trial Attorney
Office of International Affairs
Criminal Division
U.S. Department of Justice

A. IDENTIFICATION OF FUGITIVE:

Name (include A/K/As): Peter Nygard

Country(ies) of Citizenship: Canada, Finland

Date(s) of Birth: July 24, 1941 Place of Birth: Helsinki, Finland

Proof of Citizenship attached (if U.S. citizen): ____ (e.g., passport, naturalization or birth certif.)

Race: White Gender: male X female ____

Height: 177cm Weight: 78KG Hair Color: gray Eye Color: blue

Scars/Other Characteristics: ____

Photograph Attached: Y Fingerprints Attached: N

Driver's License No.: ____ State issued: ____

Social Security No.: ____

Passport No.: HC029230 Date & Place Issued: March 19, 2015, Canada

Nat'l ID Card No.: ____ Date & Place Issued: ____

Specific Address/Exact Location in Canada: 750 John Bruce Road East
Winnipeg, MB R3X 1Y2
Canada

Phone: 204-894-5000 / e-mail: Wpepe51@gmail.com

If in custody in Canada, Charges & Anticipated Date of Release: N/A

Canadian law enforcement contact in Canada (NOT U.S. contact in Canada) with knowledge of facts, fugitive's location. N/A

Name & Title:
Agency:
Telephone:

Law enforcement contact in U.S. with knowledge of facts, fugitive's location:

Name & Title: Special Agent Rachel Graves
Agency: Federal Bureau of Investigation, Squad C-20, Violent Crimes Against Children / Human Trafficking
Telephone: (212) 384-8558

B. CHARGES AND BASIS FOR REQUEST

1. U.S. Charging Or Commitment Document

Check One:
- X Indictment
- ____ Superseding Indictment
- ____ Complaint
- ____ Judgment/conviction order
- ____ Other (DESCRIBE)

Number: 20 Cr. 624
Date Filed: November 23, 2020
Name and Location of Court: United States District Court Southern District of New York
500 Pearl Street
New York, NY 10007

Has the Charging Document been unsealed (or, been unsealed for the limited purpose of sharing the U.S. State Department and a foreign government for purposes of extradition)?

YES X NO ____

2. Minimum Sentence

Offenses for which extradition is requested are punishable by at least one year in prison:
YES X NO ____

3. **Statute of Limitations**

Does statute of limitations preclude prosecution or incarceration?
YES _____ NO __x__

4. **U.S. Arrest Warrant** (attach copy)

Fugitive is wanted to (check one): __x__ Stand Trial
_____ Be Sentenced
_____ Serve a Sentence
_____ Serve Remaining Sentence (indicate how much left to serve)_____

Number: 20 Cr. 624
Date Filed: November 23, 2020
Issued By: U.S. Magistrate Judge Paul E. Davison
Name and Location of Court: United States District Court Southern District of New York
300 Quarropas Street
White Plains, New York 10601

5. **Statements Supporting Provisional Arrest Request**

SEE ATTACHED STATEMENT of FACTS AND URGENCY

C. **REQUESTING AUTHORITY, AUTHORIZATION, AND FINANCIAL COMMITMENTS**

1. **Requesting Authority**

Federal District or State/County: United States Attorney's Office for the Southern District of New York

2. **Financial Information**

For **State/County** Request, letter agreeing to pay all extradition costs MUST BE ATTACHED. N/A

----- **NOT APPLICABLE** ---

Approving Financial Authority
Name: _____
Billing Address: _____
_____
Phone: _____ Fax: _____

3. Prosecutor Authorization

Provide the name of the prosecutor authorizing this PA request:

Name: Celia Cohen / Jacqueline Kelly / Allison Nichols
Title: Assistant United States Attorneys
Address: 1 St. Andrews Plaza, New York, NY 10007
Phone: 212-637-2466 / 2456 / 2366
Email: Celia.Cohen@usdoj.gov / Jacqueline.Kelly@usdoj.gov
Allison.Nichols@usdoj.gov

This is Exhibit "E" referred to in the

Affidavit of Stefane Nicolas

affirmed before me this 14th

day of December, 2020

A Barrister and Solicitor
in and for the Province of Manitoba

PROVISIONAL ARREST REQUEST FOR PETER NYGARD

FACTS OF THE CASE

Summary

A long-term investigation by the United States Attorney's Office for the Southern District of New York and the Federal Bureau of Investigation ("FBI") has established that PETER NYGARD, age 79, and his co-conspirators have engaged in a decades-long pattern of criminal activity in the United States, the Bahamas, and elsewhere.

NYGARD is the founder of an international clothing design, manufacturing, and supply business headquartered in Winnipeg, Canada, with major offices and warehouses in Canada and in the United States (New York and California). The fashion business has multiple product lines and brands, many of which bear NYGARD's name. More broadly, NYGARD has a constellation of at least 40 different corporate entities organized in various countries, including Canada, the United States, the Bahamas, Barbados, and Hong Kong. The finances and management of these companies are intermingled. Banking records and emails obtained through U.S. legal process establish that, regardless of their formal ownership or management structure, many if not all of these companies are in fact operated by NYGARD and that NYGARD controls their finances.[1] These documents further demonstrate that NYGARD and the corporate entities that he controls maintain numerous bank accounts, as well as valuable assets such a yachts and real property, in multiple countries.

Evidence gathered in the United States includes interviews of more than two dozen victims. Based on those interviews and a review of other evidence, including emails from NYGARD's corporate email account received through U.S. legal process and evidence obtained from NYGARD's cellphone pursuant to a search warrant, the evidence demonstrated the following:

From at least in or about 1995 to the present, in the Southern District of New York and elsewhere, NYGARD and multiple co-conspirators, including numerous U.S.-based co-conspirators, used force, fraud, and coercion to recruit and entice female victims, both adults and girls ages 14 to 17, to engage in paid sex with NYGARD, and, on occasion, with NYGARD's business and personal associates. NYGARD and his co-conspirators also frequently transported adults and girls ages 14 to 17 across state and international lines for purposes of paid sex and, in some instances, sexual assault. To facilitate and fund his criminal conduct, NYGARD regularly exploited the privately held corporate entities he controlled (together, the "Company"), including by diverting Company funds and using Company employees for his own criminal purposes.[2]

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1 Although certain of NYGARD's U.S. and Canadian entities were forced into bankruptcy by a major lender in February 2020, NYGARD has maintained control over other corporate entities with significant assets.

2 These entities include those based in the United States and elsewhere. The finances and management of these entities are intermingled. Regardless of their formal ownership or management structure, it is clear from the investigation that these entities are in fact operated by NYGARD.

Additional Facts

As part of the investigation, numerous victims were interviewed, including Minor Victim-1, Victim-2, Victim-3, Victim-4, Victim-5, and Victim-6. With the exception of Victim-4, each of these victims described a relationship with NYGARD in which they were paid for sex that was in turn induced through force, fraud, and coercion, as set forth in more detail below. Victim-4 was transported in a Company vehicle from New Jersey to New York, where NYGARD attempted to force Victim-4 to engage in sexual conduct, including by digitally penetrating her. Many of these and other similarly-situated victims were referred to by NYGARD as "girlfriends" and some of them, including Victim-2, Victim-3, Victim-6, also functioned as quasi-personal assistants to NYGARD.[3]

NYGARD and his co-conspirators used fraud, force, and coercion to induce victims to engage in sex acts. We know from multiple victims, including Minor Victim-1, Victim-2, Victim-3, and Victim-5, that NYGARD frequently targeted women and girls who come from disadvantaged economic backgrounds and/or who have a history of abuse. Multiple victims, including Victim-2, Victim-3, and Victim-6, stated that they were initially induced into close contact with NYGARD in response to false promises that he made to them. For example, NYGARD made promises of modeling or fashion industry jobs that did not exist, or of assistance with their careers in other ways, and then sexually propositioned them as a condition of his assistance.

In addition, multiple victims were forced to engage in sex acts, whether by being drugged and/or forcibly assaulted. For example, Victim-3 described an instance in 2018 when she was drugged and gang-raped by NYGARD and five other men while travelling internationally with NYGARD. Victim-3 recalled few details of the assault, but NYGARD described it to her afterwards, angered that she had "ruined" the night by attempting to fight the men off and yelling. Other victims, including Victim-2 and Victim-6, have described instances at sex clubs with NYGARD where he attempted to or directed other men to sexually assault Victim-2 and Victim-6 without their consent, including by directing other men to ejaculate on Victim-2 against her will at a club in the United States, and attempting with another man to force Victim-6's legs a part to have sex after Victim-6 refused, also at a club in the United States.

Many of the victims interviewed, including Minor Victim-1, Victim-2, Victim-3, Victim-4, Victim-5, and Victim-6, also described being repeatedly coerced into submitting to sex with NYGARD. The coercive measures NYGARD used included threats of economic harm (*e.g.*, termination of employment, career, and financial support), actual economic harm, false promises of modeling opportunities and other career advancement –including fashion-related positions at the Company – in exchange for sexual compliance, surveillance of the victims' movements, physical isolation, verbal abuse, instances of forced non-consensual sex, and other techniques of psychological control. For instance, these victims have each described travelling with NYGARD within the United States and internationally, staying with him at his various properties

[3] Minor Victim-1, Victim-2, Victim-3, Victim-4, Victim-5, and Victim-6 all reside in the United States.

and in hotels, and at all of these locations, being constantly surveilled and having little to no control over their ability to leave the premises without NYGARD's permission. At some locations, the victims' ability to leave the property was exceptionally difficult. For instance, at NYGARD's Bahamas estate, the property was secured by a large gate, controlled by NYGARD's employees at his sole discretion and security cameras monitored the gate. In addition, when travelling internationally, the victims' travel arrangements, including flights and accommodations, were managed exclusively by Company employees at NYGARD's direction, making it difficult, and in some cases impossible, for victims to return home without NYGARD's permission and financial assistance.

Many victims – including the six described above – have described that in addition to demanding access to his "girlfriends" and "assistants" for sex, NYGARD regularly required access to new sexual partners, including both adults and girls ages 14 to 17. NYGARD and his co-conspirators used various recruitment tools to identify new potential victims, including (1) dinners, poker games, and large parties at his properties called "Pamper Parties"; (2) long-term relationships with co-conspirators, including men who exploited women alongside NYGARD and in a similar manner, and at least one "madam"; and (3) the personal recruitment of the friends and acquaintances of his "girlfriends" and "assistants." NYGARD also regularly patronized sex and swing clubs, including in New York, using victims already under his control as a commodity to trade for other sexual partners. At these clubs, NYGARD repeatedly forced and coerced "girlfriends" and "assistants" to engage in group sexual activity to which they did not consent.

Multiple victims, including Minor Victim-1 and Victim-5 described that NYGARD sought both girls ages 14 to 17 and adult women for sex. NYGARD had sex with Minor Victim-1 on numerous occasions while she was 17 and he was more than 50 years her senior. At the outset, NYGARD used a "girlfriend" to induce Minor Victim-1 onto a NYGARD property ostensibly to attend a Pamper Party. NYGARD subsequently isolated Minor Victim-1 in his bedroom and has sex with her, knowing that she was under the age of 18. Minor Victim-1 did not feel that she could leave the room or say no. NYGARD then paid her cash. NYGARD subsequently had Minor Victim-1 travel with him as a "girlfriend," regularly paying her in cash to continue a sexual relationship. Without her permission, or even advance warning, NYGARD brought Minor Victim-1 to a swing club in New York, where he directed her to have sex with other men so that NYGARD could have sex with those men's female partners. Minor Victim-1, who had never travelled internationally before and was dependent on NYGARD for her travel arrangements and accommodations, felt compelled to submit to his demands. She described not being scared of the other men, but rather, being scared of NYGARD. Victim-5 described that after NYGARD made her a "girlfriend," he directed her to recruit new women and girls for sex with him, including girls under the age of 18. Victim-5 recruited numerous women and girls for NYGARD, including girls she believed to be under the age of 18, in the United States and elsewhere. Victim-5 described that she and other "girlfriends" often invited these women and girls back to NYGARD's properties or the hotels where NYGARD was staying, and then offered them alcoholic drinks and recreational drugs in advance of meeting NYGARD, in hopes that it would facilitate sexual contact. Victim-5 and others described that for the duration of their

years-long interactions with NYGARD, he required his so-called "girlfriends" to find new women and girls for him to have sex with on a near-daily basis.

In addition to victim testimony, there are numerous emails and messages found in NYGARD's Company email account and cellphone evidencing NYGARD's recruitment of women and girls for sex. For instance, from the 1990s to recently, NYGARD corresponded by email with various Company employees about Pamper Parties and other recruitment events, directing those employees as to the physical requirements for female invitees and the implementation of "ratings" for prospective and past party guests. NYGARD's employees also emailed about preparations for the events, which included ensuring that there was sufficient sexual lubricant and cash on hand for NYGARD. In addition, NYGARD corresponded by email and phone with co-conspirators about women they referred to him for sex, travel arrangements for the women to see NYGARD, and payments for their services. NYGARD's use of "girlfriends" to recruit sexual partners is similarly reflected in his email and cellphone, which contain numerous exchanges with "girlfriends," including Minor Victim-1, about prospective sexual partners, as well as communications with Company employees arranging travel for those individuals.

More generally, the evidence shows that NYGARD exploited his Company to carry out and conceal his criminal conduct in various ways, including: (1) using Company staff and resources to organize, execute, and pay for victim recruitment events at his properties; (2) using Company funds to pay victims and to cover various related expenses, including plastic surgery, abortions and medical treatments; (3) arranging travel for NYGARD and victims; (4) providing property management and security services at NYGARD's various properties, including by restricting victims' ability to leave the properties without NYGARD's express approval; (5) transporting victims and NYGARD to sex and swing clubs; and (6) using Company employees and funds to quash negative publicity related to allegations of sexual assault and sex trafficking and to engage in illegal witness tampering.

NYGARD's email and phone, Company documents provided under U.S. legal process, and corroborating victim statements, including from Victim-2, Victim-3, Victim-5, and Victim-6, evidence this range of conduct. For example, the Company maintained records of NYGARD's Pamper Parties in California and in New York, including guest lists with notes about particular female guests, their body type and/or the body type of their friends, whether or not they had gone up to NYGARD's bedroom, and what time they left the premises. Company staff was tasked with organizing, supplying, and executing these events, including, for instance, screening and ranking attendees and stocking the property with sexual lubricant and alcohol, among other things. The Company also maintained travel records, including manifests and passport copies, related to the Company-funded travel of adult victims, as well as victims under the age of 18. In at least one instance, these email records demonstrate that Company employees were in possession of a victim's identity document establishing she was underage at the time of her sexual relationship with NYGARD. NYGARD's email with "girlfriends" and Company employees documents his authorization of payments to victims. NYGARD's Company email also shows communications with Company employees about security at his properties, including

email correspondence with staff in California about women attempting to leave the property without permission and being stopped by staff members. Victim statements further corroborate this evidence, including how travel was arranged by Company employees at NYGARD's sole discretion and authorization; that NYGARD controlled their daily activities and access to leave or return to his properties; that Company employees drove NYGARD and victims to sex and swing clubs; and that NYGARD's employees assisted in restricting the victims' ability to leave NYGARD's properties, including by utilizing physical barriers, lock pads, and security cameras.

IDENTIFICATION

PETER NYGARD is a 79 year-old Canadian citizen with a date of birth of July 24, 1941. NYGARD's Canadian passport number is AJ609577. United States Customs and Border Protection records show that NYGARD travelled under this passport as recently as February 24, 2020, when he travelled from St. Paul International Airport in Minnesota to Winnipeg International Airport in Canada. A photograph is attached hereto, which numerous victims, including Victim-2, Victim-3, Victim-5, and Victim-6, have identified as PETER NYGARD.

BASIS FOR URGENCY

NYGARD's provisional arrest is requested on the basis of both risk of flight and dangerousness.

First, NYGARD presents a danger to the community. As described above, NYGARD has engaged in decades of sex trafficking and related offenses facilitated by those in his employ. NYGARD used employees and "girlfriends," including trafficking victims, to recruit women and girls for commercial sex. While much of that conduct has occurred in the United States, over the last 25 years and with the assistance of employees of his Company, NYGARD has also enticed women to travel to Canada for this purpose and victimized them at properties in Winnipeg, Toronto, and Falcon Lake. Some of the employees and confidantes who have facilitated such conduct continue to work for and to assist NYGARD. The investigation, including through interviews with the victims detailed herein, shows that NYGARD's criminal conduct has affected hundreds of victims. Harm to his victims has included not only economic and psychological harm but also numerous instances of non-consensual sex, including non-consensual group sex, attempted forcible rapes, and drugging of victims. While some victims have suffered only a single sexual assault by NYGARD, others have been subjected to persistent manipulation and sexual abuse. These longer-term victims are required to be constantly available to NYGARD and are not permitted to leave his property without his permission. As recently as February 2020, NYGARD travelled into Canada with a female United States citizen, ostensibly working as his personal assistant ("Female-1"). Female-1 was with NYGARD until approximately October 2020, when she returned to the United States. Upon her return to the United States, the FBI executed a search warrant for Female-1's cellphone. Communications on Female-1's cellphone indicate that, while in Canada, she was required to reside with NYGARD; that she was worked by NYGARD to the point of exhaustion; that NYGARD closely monitored her movements; and that NYGARD explicitly instructed her that she was not

permitted to leave the premises without his permission. In the days leading up to Female-1's departure, she communicated with Victim-6, telling her, in sum and substance, that NYGARD had "been a monster" and that she was leaving. This recent conduct, together with his decades-long course of conduct, demonstrate that NYGARD presents a persistent danger to the community.

Moreover, during the past several decades, NYGARD has repeatedly engaged in efforts to obstruct justice and tamper with potential witnesses against him. These efforts have included paying witnesses to provide information that NYGARD knew to be false, monitoring contact between victims and U.S. law enforcement, and providing false information to witnesses, including those NYGARD knew had been contacted by U.S. law enforcement. For instance, in or about 2016, after learning about a federal criminal investigation in the United States into trafficking activity, NYGARD directed Victim-6 to provide testimony establishing that Minor Victim-1 was an adult under U.S. law, that is, over age 18, when she travelled with NYGARD. Victim-6, who believed at the time that Minor Victim-1 was 18 or older, agreed, and offered sworn statements at what she understood to be a civil deposition. After NYGARD subsequently rewarded her with a $2,000 cash bonus, she began to doubt the veracity of her statements and later learned that Minor Victim-1 was under age 18. Messages recovered from NYGARD's phone demonstrate that in or about December of 2019, a witness who had been lawfully served by the FBI with a subpoena ("Female-2") sent NYGARD a photograph of the FBI agent's business card. NYGARD indicated he would make inquiries about the agent and about 20 days later, he sent Female-2 another message falsely telling her that the agent was a "fake." Victim-3 has also spoken to another longtime "girlfriend" ("Female-3") who told Victim-3 that in the summer of 2020, after the U.S. investigation had been revealed, NYGARD contacted Female-3 from another person's phone to convey, in substance, that if she were not on his "side" then she was "going down." These efforts threaten not only the prosecution of NYGARD, but the ongoing investigation of his co-conspirators.

Second, NYGARD presents a substantial risk of flight. NYGARD was alerted to the U.S. investigation when he was intercepted on or about February 24, 2020, in the St. Paul International Airport and served with a search warrant for electronic devices. NYGARD subsequently boarded a flight to Canada. As previously noted, soon afterward, a major retailer dropped NYGARD's clothing brand and several of NYGARD's corporate entities were put into bankruptcy proceedings in Canada and the United States. While these proceedings have temporarily slowed NYGARD's ability to liquidate certain assets, he has maintained control over significant real property and bank accounts held by non-bankruptcy entities. Public real estate records, as well as filings in the Canadian bankruptcy proceeding, demonstrate that NYGARD has recently been liquidating some of these assets, including some in the United States, and using Company employees to extract cash for his use. Moreover, the bankruptcy receivership is expected to end in or around January 2021, and NYGARD will then have easier access to additional corporate assets. NYGARD is aware of the federal investigation and is no doubt aware of the substantial penalties potentially involved. For these reasons, NYGARD has a significant incentive and means to flee. Indeed, communications on Female-1's phone indicate that at least as recently as April 2020, NYGARD was considering travel to Malta or Bermuda,

and that in or about June 2020, he was considering the logistics of travelling under an alias. The fact that Female-1 undertook such research on NYGARD's behalf is consistent with evidence provided by multiple victims and confirmed by email review that NYGARD does not undertake travel and other logistical arrangements personally, but delegates them to his staff, indicating that, in Female-1's absence, NYGARD would be inclined to turn to other employees for administrative tasks that could include arrangements to flee. Moreover, communications between U.S. authorities and NYGARD's attorneys have made it clear that NYGARD is aware that U.S. authorities seized Female-1's phone in October 2020, a clear indication to him that the investigation is ongoing.

NYGARD has a history of failure to appear in legal proceedings. As publicly reported, a warrant was issued for his arrest in the Bahamas after he failed to appear for a required court appearance related to ongoing civil litigation, and he was sentenced to 90 days in prison and a fine after a Bahamian court found that he violated a court order.[4] Emails and phone records reflect NYGARD's awareness of these legal proceedings; nonetheless, he has not returned to the Bahamas as directed. Moreover, NYGARD directed Victim-6 to help him feign an inability to travel because of medical problems, directing her, for instance, to photograph him at a hospital.

COMMITMENT TO SEEK EXTRADITION

The United States commits that a request for extradition will be submitted to Canada within sixty (60) days of the date of provisional arrest.

4 *See generally* https://globalnews.ca/news/4901221/arrest-warrant-issued-after-peter-nygard-fails-to-appear-in-bahamas-court/ and https://www.cbc.ca/news/canada/manitoba/peter-nygard-sentenced-jail-bahamas-1.5365500.

PROVISIONAL ARREST REQUEST FOR PETER NYGARD

Exhibit A